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No. 91 - 470

DEPT. OF THE CLERK

In The
Supreme Court of the United States

October Term, 1991

In the Matter of
DANIEL R. HODGE, M.D.,
Petitioner,

vs.

New York State Department of Education, New York State Board of Regents, Thomas Sobol, Emlyn I. Griffith, Henry A. Fernandez, Jane M. Bolin, Patrick J. Picariello, Martin C. Barell, Carlos R. Carballada, Willard A. Genrich, Jorge L. Batista, Laura Bradley Chodos, Louise P. Matteoni, J. Edward Meyer, Floyd S. Linton, Mimi Levin Lieber, Shirley C. Brown, Norma Gluck, James W. McCabe Sr., Adelaide L. Sanford, Walter Cooper, Charles J. Adams, Daniel W. Szetela, Ann R. Eldridge, Christopher Lefkarites, Esq., Andrew A. Tolkof, Esq., Howard J. Goodman, Esq., Diane G. Maupin Esq., Lance R. Plunkett, Esq.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE STATE OF NEW YORK
COURT OF APPEALS

REPLY TO BRIEF IN OPPOSITION

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October 24, 1991



QUESTIONS PRESENTED

1. Whether the nolo contendere statement of the New York State attorney general Robert Abrams, waiving the right to submit a response for the Respondents, under the ludicrous pretext that, **"the Petition raises no issues warranting this Court's consideration,"** only further strengthens Petitioner's contentions of the Respondents' gross civil misconduct under 28 U.S.C. 1343 and criminal misconduct under 18 U.S.C. 241-242 for **scientific fraud** perpetrated in a conspiracy, under color of law, even from behind the bench?

2. Whether we can allow our system of jurisprudence to return us to the days of oath helpers, corruption and criminality, particularly in this modern age of the high technology of Black oppression?

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Respondents.

**ON PETITION FOR WRIT OF CERTIORARI
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REPLY

The Nolo Contendre statement (RP 1)¹ of New York State Attorney General Robert Abrams, with regards to the most obvious gross civil and criminal conduct of several of his New York State clients, the Respondents, surprises no one really, least of all this Petitioner, who has been up to the mountain top-a-justice before, with Bob Abrams trailing in *Hodge vs. Kelly et al.*, cert. denied, 490 U.S. 1081 (1989), and now for the fourth time, with a fifth Petition on the way. The truth is that the Respondents cannot respond and even then to only further

¹ "RP" refers to the appendix to this Reply. -

perjure themselves in this case, with documentary evidence of such serious misconduct on their part, which many of the Respondents - not this scientific Petitioner - have committed. The courts below either actively participated in or passively allowed gross civil and criminal infractions to be committed against an exemplary physician, whom the Respondents have maligned, defamed, tortured, battered, robbed and destroyed in an unending, macabre ritual of parading **oath helpers**,² operating under the theory is that if enough people in "**high places**" - no matter how ill-educated, uninformed or unqualified - come into our courts, and without any valid proof whatsoever, but merely uttering collusive statements of condemnation of this Petitioner, that the Respondents can thereby obtain irrevocable "**Judgments of guilt**" against this Petitioner.

The Respondents' administrative proceedings and the other reviewers' judicial conduct below is deplorably evasive and malicious, most specifically in a medical professional context, where absolutely none of the administrative reviewers - with the exception of the dissenting New York State regent, the late Gerald J. Lustig, M.D., - are physicians. The Respondents' illusive deceptions are most reprehensible because the **best evidence standards** for diagnosis, treatment and follow-up care of a patient are universally and readily available in textbooks, manuals, periodicals and scientific journals. The **best evidence medical standards** have been presented ad nauseam, in ultra-arcane and esoteric detail to the Respondents and the other reviewers below, by this Petitioner in defense to fabricated charges and pretended offenses of "**professional misconduct.**" Respondents refused to grant Petitioner's repeated motions to "**call in**" some real doctors. And doctors Robert Abrams, M.D., and Sol Wachtler, M.D., of

² In the thirteenth-century English courts the rules permitted the defendant in a **debt action** to have the benefit of "**wager of law**" under which procedure the defendant could appear in court with "**oath-helpers**," usually eleven in number, each of whom would swear that the defendant was not indebted to the plaintiff. If the defendant successfully performed this ceremony, he won his case. Obviously, the less scrupulous the debtor, and his friends, the greater the likelihood that the debt would go uncollected. **Problems in Contract Law**, Charles L. Knapp, Nathan M. Crystal, p. 67, Little, Brown and Co. (1987)

course, continue to proclaim that, **"The Petition Raises No Issues Warranting This Court's Consideration."** (RP 1) How would Drs. Bob & Sol know **"medical issues"** when they haven't the foggiest notion about medicine and probably can't distinguish an aspirin from a lozenge? It is a national disgrace!

Our whole nation - and the whole wide world - were glued to the highly publicized judiciary committee's proceedings on television, which were had pursuing the search for the **"truth"** of allegations of **"sexual harassment,"** lodged in the eleventh hour against this Court's newest member. The differences between legitimate complaints and false allegations of **"sexual harassment,"** have been highlighted in the minds of every woman and man in our nation, whether or not citizens of any gender believed or disbelieved the great hearsay and hearsay-upon-hearsay evidence presented in the proceeding. The apparent physical pain and emotional trauma being experienced by the two subjects were immense.

This Court should now multiply that physical pain and emotional trauma of the two protagonists, a hundredfold, and even then, this Court would still not closely approach the six years of damage to **"life, liberty and property,"** that has been - and is still being - sustained by this Petitioner, who at this very nanosecond has an Order of the New York State education commissioner, calendar number 10444, hanging over Petitioner's head, the subject of this Petition, which forces this exemplary Black physician to unjustifiably undergo recurrent **"psychiatric examinations,"** and to be subject to the continual abuse and degrading humiliation of having to undertake perennial, **"psychiatric counselling programs,"** even if this Petitioner passes those recurrent **"psychiatric examinations."** This Court should know that no other physician, has been so ordered and disciplined, of the approximately 160 - 180 New York State physicians currently on probation for **"professional misconduct,"** for a range of infractions which include, among other things, adoption fraud, sexual misconduct with a patient, drug sale and drug abuse, alcoholism, medicaid fraud and various other forms of felonious conduct.

This Black citizen wants to know where is Due Process?

Where is Equal Protection? Where is the prohibition against cruel and unusual punishments? Where is the right of the people to Petition the government for a redress of grievances? Where is prohibition against abridging freedom of speech? Where is the substance and essence our noble and enduring **Constitution** when the people in power, elected or appointed, and charged with the sacred trust and high honor of performing the duties required and enjoined upon them by law, absolutely refuse to uphold our **Constitution and laws of the United States of America?**

Is this the real America? This Black citizen, Daniel, even more fervently than ever, believes in our blessed America, even after all that torment and torture of a half-dozen years, having been cast in the pits of the lion's den, with zero income since 1989, under the **economic duress** of an unjustifiably suspended medical license, and notwithstanding, being on the verge of incarceration for the pretended offense of **"willful and intentional"** violation of an order of support, in a further malicious prosecution now pending in the Family Court of Erie County, New York, which Associate Justice Kennedy, even with three of Petitioner's certiorari Petitions before him, being fully aware of this horror, nevertheless, refused to stay that kangaroo proceeding pending appeal. This valiant domestic soldier and Petitioner, continues fighting for America - because most of our critical battles are not on foreign soil - but right here at home, as we all must daily wage a Civil War for, among other things, preambular **Established Justice and Domestic Tranquility**. Nobody said that the road to peace would be easy.

A-R-G-U-M-E-N-T

POINT I: The Nolo Contendere Statement Of The New York State Attorney General Robert Abrams, Waiving The Right To Submit A Response For The Respondents, Under The Ludicrous Pretext That, "The Petition Raises No Issues Warranting This Court's Consideration," Only Further Strengthens Petitioner's Contentions Of The Respondents' Gross Civil Misconduct Under 28 U.S.C. 1343 And Criminal Misconduct Under 18 U.S.C. 241-242 For Scientific Fraud Perpetrated In A Conspiracy, Under Color Of Law, Even

From Behind The Bench.

If we truly love America, yes, even amidst the horror of a fate worst than death - being tortured, tormented, degraded and humiliated, robbed of the most precious of one's possessions - as this Black citizen has been forced to endure, then suffering all that horror is still but a small price to pay for our country: A more beautiful America, a more perfect union, for ourselves and our posterity. This Black Petitioner has but one life to lawfully live for his country and will so lawfully live it, regardless of the grotesque, gruesome, hideous, horror that has been visited upon him, under economic duress and emotional distress, at the hands of anarchists, despots, and criminals **"in high places"** in our government, who are bent on frustrating the enterprise of a Black citizen out of jealousy and race hate.

This Black citizen, an adoptive son of this great country, who loves it and appreciates its time-honored institutions, perhaps far more than many natural-born citizens, declares that there are, after all, only two classifications of citizens in America: Constitutional abiders, on one side, who enjoy, among other things, the **Blessings of Liberty**, and on the other side, are constitutional violators, who by virtue of their conduct, can suffer lawful punishments ranging from mere inconveniences to the death penalty. There are, or at least, should be no others. Indeed there are myriad subclassifications of poor and rich, Black and white - and a multiple range of genetic variations and conglomerations in between - powerful and weak, those possessing or lacking formal education and useful skills, and many, many other examples and categories too numerous to count.

One tenet, however, is irrevocably sacred: Nobody but nobody is above the law! In the instant case, it is documentarily evident - from even ordinary medical textbooks, let alone from the more esoteric and arcane sources - that many of the Respondents and their conspirators made a mockery of the professional peer review process and our system of justice, and carried out an atrocious, reprehensibly malicious prosecution of an exemplary Black citizen, for a half dozen years, motivated by

jealousy and race hate and being committed in the broad daylight "**Gulag Archi-Amerigo**" in the aurora borealis of the "**liberal north.**" There is as yet no end in sight. And moreover, even in the remnant Soviet Union, the practice of deeming political dissidents as having mental disorders, to punish, humiliate and silence them, is no longer acceptable - but not here in our scientific democracy and wonderful United States of America - where psychiatric intimidation still is accomplished with the full blessings of the State of New York, court of appeals.

The proffered pretextual guise for ordering Petitioner to undergo the initial psychiatric examination (RP 2-9) was recounted in the report of psychologist Robert H. Goldstein, Ph.D., who was appointed by the State of New York department of health, and who made the assertion that,

"Dr. Hodge has been employed as a physician at the Attica Correctional Facility, and has been involved in rather stormy administrative disagreements which have resulted in several instances of Dr. Hodge being suspended from employment and subsequently filing grievances against his supervisors. In the course of several hearings on these matters, *Dr. Hodge's behavior as well as the nature and content of several of his written communications to various officials*, have raised the question of possible mental impairment, and the current examination is pursuant to that question." (RP 4)

Some of the "behavior" being referred to, was the rather rigorous confrontation Petitioner had with the New York State, associate counsel for the office of professional medical conduct, the late Paul R. White, Esq., whom Petitioner labelled as a white racist in open court, far more graphically (as for example, **"I'm crazy - about that Constitution - just as much as you're a white racist,"**) than the rather subdued manner in which nominee Clarence Thomas stated,

"From my standpoint, as a black American, it is a high-tech lynching for uppity blacks who in any way deign to think for themselves, to do for themselves, to have different ideas, . . . You will be lynched, destroyed, caricatured by a committee of the U.S. Senate rather than be hung from a tree."

Petitioner, recognizing the futility of trying to fight a racist hearing-committee-ordered psychiatric examination in the

peer review proceeding, had to go along with the onerous and humiliating program and, of course, cooperated fully with the racist hoax-of-an-examination, as psychologist Robert H. Goldstein, Ph.D., submits,

"[h]e presented himself as cooperating with the examination, which he perceived as a requirement, but he was feeling essentially resentful of the entire evaluation proceeding, which he clearly perceived as a part of a 'conspiracy' directed against him and related to racial discrimination. Despite this avowed attitude, he was, in fact fully compliant and cooperative with all examination procedures." (RP 4-5)

Petitioner knew very well that New York State appointed psychologist Robert H. Goldstein, Ph.D., would **"find"** something wrong with Petitioner and Petitioner gave him all the legal documents involved at the district court level in the controversies including *Hodge vs. Kelly et al.*, cert. denied, 490 U.S. 1081 (1989), and *Hodge vs. Lake Shore Hospital et al.*, 91-443 and advised him that he should be an **independent professional** with regard to his reviews, and to not - merely for the sake of expediency - just produce something supportive of the views of associate counsel for the office of professional medical conduct, late Paul R. White, Esq. It was, of course, wishful thinking. Petitioner was, to be sure, waiting to be visited with some grandiloquent form of mental disease or the other, the only real concern was which one or ones, would be expediently concocted & conjured-up.

To the lay person, it would fit perfectly, psychologist Robert H. Goldstein, Ph.D., no doubt thought, if an outspoken, dauntless Black man, who wrote vignettes, parodies and poems (RP 66-67) and made outrageous statements to provoke his Jewish oppressors, like, **"Daniel R. Hodge, M.D., J.D., who dun got a Moh Perfect Ed-jew-kazhun dan 220 million white folk in the Land of the Free and Home of the Brave,"** could be **"believably"** labelled and saddled with an Axis II, mental disorder that, **"would strongly point toward the possibility of a personality disorder, most likely of a narcissistic type."** (RP 9) It worked very well and the so-called hearing committee, and all the reviewers up the administrative and judicial tiers of ambition, summarily

adopted it, with subtle variations and nuances, sculptured along the way to fit each of their malicious and divers designs.

Dr. Kildare I. Clarke, M.D., J.D., who is the associate director of the Kings County Hospital emergency room in Brooklyn, N.Y., and who has known Petitioner for about twenty years, and was a year ahead of Petitioner in Downstate Medical College, prepared an extensive Psychiatric Report and Medico-Legal Opinion (RP 12-65) which meticulously, completely and credibly refuted not only the basis for the alleged, **"personality disorder, most likely of a narcissistic type,"** but also demonstrated with scientific definitude, that the alleged **"medical misconduct"** charges were bogus as well.

On September 11, 1990, New York State sponsored psychologist Robert H. Goldstein, Ph.D., was asked (RP 71-72) to justify what he considered to be the **factual foundation** underpinning his report, by certifying each of the elements of that **Narcissistic Model** as they pertain to this Petitioner. He obviously had no such **factual foundation** and refused to substantiate the merits his work product, secluded behind the facade that, **"Your request for further information regarding my opinion appears to be in the context of an adversarial proceeding,"** (RP 73) when, in fact, the original request was in the very same adversarial context. He shall most surely justify his fraudulent master piece on that heavenly hot seat soon.

On September 17, 1990, George S. Parlato, M.D., Diplomate in Psychiatry, American Board of Psychiatry and Neurology reported his findings: **"Impression: No mental or emotional disorder. It is my opinion that Daniel Hodge, M.D. is fit to practice medicine on the basis that he was free of significant psychopathology."** (RP 74-76) Up to that point in time Petitioner was declined and unable to recruit more than a dozen psychiatrists (RP 10-11; 68) to perform a psychiatric examination, to assist Petitioner in complying with the May 4, 1990 order - still in full force and affect - of the New York State commissioner of education, Thomas Sobol, calendar no. 10444, which required not only a psychiatric examination but that Petitioner undergo and partake in recurrent **"psych counselling programs,"** as a term of probation.

Petitioner even made an application to the New York State, appellate division, third department for an order to **implement the "psych order,"** (RP 69-70) which was never signed nor was it denied - just ignored. Moreover, from the date that the Thomas Sobol order was signed, May 4, 1990, to this very nanosecond, the recurrent **"psych counselling programs,"** probation term 1f, (AP 11, not RP), providing that, **"said counselling program to be selected and previously approved, in writing, by the director or the office of professional medical conduct,"** has yet to be **"selected and previously approved,"** in writing by any body in the New York State department of health. It is a white racist hoax, merely designed to humiliate and degrade this proud Black American, and every body knows it! Thomas Sobol shall soon explain away the design and purpose of that manner of a modern marvel and historical spectacle **"for-a-Nigga-only-psych-order"** on the heavenly hot seat, even before an all white, blond & blue-eyed jury - if that be the epitome of aryanism, in the more abstract and symbolic sense.

The Respondents committed, and are to this nanosecond still committing, gross civil misconduct under 28 U.S.C. 1343 and criminal misconduct under 18 U.S.C. 241-242 for **scientific fraud** perpetrated in a conspiracy, under color of law, from before and behind the bench, by continuing to impose a **wholly unlawful,** dehumanizing, ridiculous white racist order, requiring perennial psychiatric examinations and participation in an unending, pointless psychiatric counselling program, for a Black American, having more formal education than all of the Respondents, the administrative and judicial reviewers below, and 250 million other Americans of any color, including this very Court.

IT IS A NATIONAL DISGRACE!!

POINT II: We Cannot Allow Our System Of Jurisprudence To Return Us To The Days Of Oath Helpers, Corruption And Criminality, Particularly In This Modern Age Of The High Technology of Black Oppression.

In many ways there are marked similarities in the ostensibly separate honors of **giving** one's life for our country and **living** one's life for our country. American patriots know that in either **giving** or **living** a dedicated life for our country, both

require such standard qualities as bravery, valor, a yearning for learning, introspection, the building of good character, and most importantly, a willingness to fight to the very end. And whether the battle front is on foreign soil or here at home, the American patriot is well-armed with the most powerful weapon known to all of mankind, for the protection of **"life, liberty and property,"** the enduring **Constitution of the United States of America**. It works! And when those who have been lawfully sworn to so uphold - do not uphold it - then ~~We~~ **the People**, shall most surely expose them and lawfully remove them from their positions of trust and high honor.

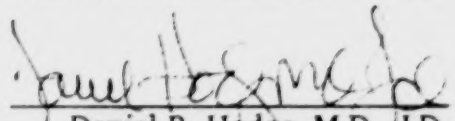
This Court must in the interest of Justice, fairness and human decency, annul the order of the New York State commissioner of education, in its entirety as being wholly unlawful because it is insupportable in either fact or law, or under any medical or legal rationale. This Court must reinstate this exemplary Black American physician to his position as a clinical physician at Attica Prison, with full back pay and benefits, no loss of seniority and complete freedom of scheduling as is enjoyed by white physicians; so, that this proud Black American can lift up his voice, **while locked twelve gates deep, behind those gruesome walls of eternity, into the bosom of Attica Prison, holding Ole Glory near his heart**, and can finally fulfill that vision and dream which Dr. Martin Luther King Jr., had at the foot of the Washington Monument, a full score and eight years ago, and similarly say, in the words of that old Negro spiritual, **"Free at last! Free at last! Thank God almighty, I'm Free at last!"**

CONCLUSION

For all the foregoing reasons, a writ of certiorari must be issued for this Court to exercise its power of supervision, to return to Petitioner his unscarred property in his medical license and unblemished medical reputation, enabling Petitioner as an **independent professional**, to again practice medicine in the exemplary fashion of the past.

Dated: Buffalo, N.Y.

October 24, 1991


Daniel R. Hodge, M.D., J.D.





RP 1

State of New York
Department of Law
120 Broadway
New York, N.Y. 10271

Robert Abrams
Attorney General

Howard L. Zwickel (212) 341-2600
Assistant Attorney General in
Charge Litigation Bureau

October 8, 1991

William K. Suter
Clerk, Supreme Court of the United States
Supreme Court Building
Washington, D.C. 20453

Re: Hodge v. New York State Department
of Education, New York State Board
of Regents, et al.
Dkt. No. 91-470

Dear Mr. Suter:

This office has received copies of a petition for writ of certiorari in the above entitled matter. Please be advised that we represent the respondents in this matter and that because the petition raises no issues warranting this Court's consideration, respondents waive the right to submit a response.

Thank you for your consideration.

Very truly yours,
/s/
Assistant Attorney General

cc: Daniel R. Hodge
64 Marine Drive
Amherst, N.Y. 14228

RP 2

THE UNIVERSITY OF ROCHESTER 300 CRITTENDEN BOULEVARD
MEDICAL CENTER ROCHESTER, NEW YORK 14642
AREA CODE 716

SCHOOL OF MEDICINE AND DENTISTRY
SCHOOL OF NURSING
STRONG MEMORIAL HOSPITAL

JAMES W. BARTLETT, M.D.
Professor of psychiatry
(716) 275-3320

Chairman Thea Graves Pellman
520 Adams Avenue
West Hempstead, New York 11552

September 13, 1988

Dear Chairman Pellman:

I was requested by Paul R. White, Esq., to conduct an independent psychiatric examination of Daniel R. Hodge, M.D., in accord with your order of July 18, 1988. I did see Dr. Hodge in psychiatric consultation on July 27, 1988. At my request, and as a part of my examination, psychological testing was carried out on August 20, 1988 by Robert H. Goldstein, Ph.D. A copy of Dr. Goldstein's report to me is included with this letter. Both my examination and Dr. Goldstein's took place at the University of Rochester Medical Center, Rochester, New York.

Your question in ordering this examination was whether or not Dr. Hodge is impaired by mental disability. The charges against him were not given to me so that my opinion is a general one and not specific to the incidents before your Board.

The findings in my examination were consistent with Dr. Goldstein's observations. Dr. Hodge presented himself as a pleasant, garrulous, and aggressive man, ambitious and almost blindly confident in himself. He is preoccupied with white racism which he views as a conspiracy against himself and others. He deliberately uses sarcasm and parody to provoke his opponents. He is rather grandiose and solipsistic in his assessment of himself and his situation as he perceives it. In spite of his aggressive talkativeness, he is responsive to direct questions. His thoughts are not disorganized and there is no

RP 3

evident clang association, thought disorder or push of thought. Though he is self-centered and uncritical in his evaluation of himself in his current conflicts, reality testing is not grossly impaired.

Past medical and psychiatric history is unremarkable. There is no family history of emotional illness, bipolar or otherwise. He denies present or past use of alcohol or mood or mind altering drugs. He is unaware of any significant mood disturbances. A rather turbulent marital history is noted.

In discussing the diagnostic impressions obtained, I shall refer to the diagnostic criteria from DSM-III-R currently used by the American Psychiatric Association. There is not sufficient clinical evidence to support reasonably an Axis I diagnosis, such as paranoid psychosis, schizophrenia, or major affective disorder, or for any of the neurotic illnesses.

Axis II consists of the developmental and personality disorders. The personality disorders are a constellation of behaviors or traits causing either significant impairment in social or occupational functioning or subjective distress. These behaviors and traits are characteristic of the person's recent and long-term function and are not limited to episodes of discrete illness.

Dr. Hodge's examination leads me to the finding that he does have a personality disorder of the narcissistic type.

While this pattern of repetitive behavior may be fixed by the personality disorder, it does not impair his ability to understand his actions and their consequences. Therefore, the clinical considerations involved in the categorization of this condition as a mental disorder may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, competency or impairment.

Sincerely yours,

James W. Bartlett, M.D.

Diplomate, American Board of
Psychiatry & Neurology, in Psychiatry

JWB/mec

Enc., cc.: James A. McLeod, Esq., Paul R. White, Esq.

HODGE, Daniel
DOB

PSYCHOLOGICAL EVALUATION

Date Seen: 8/20/88

Tests Administered

Rorschach

Minnesota Multiphasic Personality Inventory (MMPI)

Human Figure Drawings

Bender Gestalt Figures

Wechsler Adult Intelligence Scale - Revised (Subtests) (WAIS-R)

This 44-year-old physician was seen in private office on referral from Dr. J. Bartlett in the context of a psychiatric evaluation requested by the New York State Department of Health in order to determine whether Dr. Hodge is experiencing any mental disorder which could impair his ability to practice medicine. Dr. Hodge has been employed as a physician at the Attica Correctional Facility, and has been involved in rather stormy administrative disagreements which have resulted in several instances of Dr. Hodge being suspended from employment and subsequently filing grievances against his supervisors. In the course of several hearings on these matters, Dr. Hodge's behavior as well as the nature and content of several of his written communications to various officials, have raised the question of possible mental impairment, and the current examination is pursuant to that question.

Dr. Hodge presented on time and appeared well-dressed in a three-piece blue pinstripe suit and matching tie. He was neatly groomed and presented a generally appropriate and professional appearance. On brief interview, he presented himself as cooperating with the examination, which he perceived as a requirement, but he was feeling essentially resentful of the entire evaluation proceeding, which he clearly perceived as a part of a "conspiracy" directed against him and related to racial

discrimination. Despite this avowed attitude, he was, in fact fully compliant and cooperative with all examination procedures. He initially protested regarding the retaking of the MMPI, which had been administered previously in April, 1988, but he easily consented to do so and completed the full questionnaire.

Dr. Hodge's speech was rather pressured and demonstrated a tendency toward digressing, most often into what seemed to be his quite pervasive preoccupation with issues of racial discrimination. He spoke quite eloquently and with intensity of his perception that the superiors at Attica, as well as other state officials, were attempting to prevent him from completing his studies in law school as part of a generalized cultural orientation toward preventing black citizens from achieving success. He engaged in much rather forceful and angry political rhetoric, and at no point indicated any awareness of any sense of personal responsibility for the difficulties he has apparently encountered. Some of his communications contained a rather grandiose quality. For example, he referred to filing the "biggest civil rights suit in the nation's history," which he stated would entail a five billion dollar claim against various NYS political and judicial officials. He also told of being involved in multi-million dollar real estate deals. He tended to expand on these topics at considerable length, with a somewhat "preachy" quality, and was easily moved to intense anger and resentment so that his speech was punctuated by frequent colorful profanity. He displayed some annoyance at being challenged or questioned about any of his positions, but never appeared to be at or approaching a point of losing control.

Dr. Hodge quite directly asserted the political nature of his orientation in these issues, and this was clearly reflected in his overt statement that "I am a political being," adding that he perceived his medical career as simply being a preparation for an active political life. He told of a plan to travel with a large contingent of black Americans to Russia in order to assert the presence of racial discrimination in this country via a demonstration in Red Square in an effort to embarrass the United States. He also expressed some concern about some perceived danger to himself as a result of his activities, and the

possibility that, "They might be going to shoot me."

Dr. Hodge brought along and gave to the examiner several additional letters and accompanying documents which he was preparing to send to various state officials. He made it clear that these various communications were designed to provoke and embarrass the various officials to whom they had been addressed, and that they constituted a form of political satire and parody through which he was expressing his intense anger and resentment of the treatment he had received. Despite repeated questioning, Dr. Hodge was never able to be entirely clear about what response he anticipated from these communications, or how he believed they would assist his personal case.

With regard to the examination proper, Dr. Hodge at times tended to be somewhat exhibitionistic concerning his knowledge. For example, on the Rorschach he several times stated, "This is an 'X.' You know know [sic] what an 'X' is, don't you," and seemed almost disappointed when the examiner indicated his familiarity with the item in question. Despite his tendency to drift into digressions involving his political and social concerns, he could be readily structured back into an appropriate task orientation without difficulty. This did require, however, numerous instances of such structuring in order to assist him in maintaining a task focus.

Several of the WAIS-R subtests were administered in order to assess Dr. Hodge's cognitive functioning. His performance demonstrated substantial variability. On the basis of these subtests it will be possible to calculate an estimated Full Scale IQ of 117, a score that falls in the Bright Average Range of the population of persons his age. A Verbal IQ of 123 could be calculated, which corresponds to the Superior range of intelligence, while a Performance IQ of 105 would fall within the upper portion of the Average range of ability. Because of the small number of subtests administered and the high degree of variability of performance, these cannot be interpreted as accurate estimates of his actual intellectual capacity. He demonstrated a quite high level of factual knowledge concerning his environment, and produced concise and accurate responses without a single error to all of the Information subtest items.

This would correspond to a Very Superior performance. His other test scores fell between the Average and the Bright Average ranges. He demonstrated good attention and concentration, as reflected in his ability to repeat seven digits and to reverse an equal number. Perceptual learning skills were adequate, but somewhat below his overall level. He approached the Block Design items in a systematic, organized, and orderly fashion, and successfully assembled all the designs within the allotted time, although he did not receive additional time credits on many of them because of his only average speed. While working on these items he remarked frequently on the difficulty of the tasks, and appeared challenged by this difficulty without in any way appearing distressed or demonstrating any deterioration in performance because of this difficulty. His ability to think in abstract terms appeared to be adequate, as reflected in his appropriately abstract interpretations of several proverbs, although his interpretations were slightly idiosyncratic in content. His responses to similarity items also revealed an adequate level of abstract thinking, but his score was only at the average level because of his tendency to seek highly overly-abstract and intellectualized responses. In general, his performance on cognitive measures does not reveal evidence of significant cognitive impairment. There was, however, substantial variability in his performance, but there was no clear pattern to this variability. There were no instances of disruption of logic, coherence, or organization in the nature of his thought processes, and his responses to formal cognitive tasks did not reveal any disturbance in his capacity to maintain an appropriate focus of intellectual effort.

Dr. Hodge's MMPI profile was a highly guarded and defensive one. It suggested that he apparently approached the test with an orientation of presenting the most favorable and positive kind of impression, while seeking to convey an image of adequacy, control, and effectiveness. The profile is, as a whole, attenuated by virtue of his tendency toward conscious suppression and his orientation that "Everything is all right." The profile does reflect a mild tendency toward a generalized sense of dissatisfaction and discontent with life. This could very well

be a reflection of his experiencing some immediate situational pressures. His anxiety level was low, and in general, his activity and behavioral level did not reflect any tendency toward loss of control.

In approaching tasks such as the Bender Figures, Dr. Hodge's style demonstrated a tendency toward plunging into things without careful initial planning. He is not a precise and detail kind of person. On the Bender Figures his lack of planning resulted, for example, in the collision of two of the Bender figures, but he was able to manage the collision such that while one figure intruded into the space of the other, it did not in fact overlap with any of the lines of the first figure. The were indications of a variable pattern of decreased emotional control with increasing stress, but this was not a consistent pattern and at other points there were indications of a tendency toward even tighter control under emotional pressure. One could infer that Dr. Hodge's approach to the world is not one in which he is incapable of perceiving problems, but rather that he tends not to anticipate them. He is, in fact, alert to and sensitive to difficulties as he encounters them, and does seek to make adjustments. At times, however, he may expect the environment to adapt to his needs when such a difficulty has been encountered.

On projective tests, again, the pattern is not a particularly pathological one. He demonstrated an overall adequacy of reality testing. There were indications that he may be subject to periods of somewhat increased ego inflation, and other periods of lowered self-esteem when his experiences do not match his expectations. He may tend to identify himself with heroic leaders of the past, and may experience some need to contend with his environment in order to survive or progress in life. He has high aspirations, and tends to at times use fantasy or verbal aggression as a way of satisfying his basic needs for security and supplies. There are signs of some degree of emotional lability, but there are also indications of adequate and appropriate control being available to him. As the level of emotional intensity of his responses increase, there was some pattern of an increase in activation level and heightened behavioral lability.

There were, however, no clear signs of psychotic distortion, breakdown in logic, or the utilization of paranoid projective modes of thinking.

In summary, the examination reveals Dr. Hodge to be a man of good intellectual ability whose potential probably falls in the Superior range of intelligence, but who may not always function at that high level. There are minimal indications of major emotional disturbance apparent in his test record, and the degree of behavioral discontrol apparent on clinical interview is surprisingly not reflected in his test performance, where he showed some emotional lability but no deterioration of defenses and no breakdowns of reality testing. This generally intact level of personality integration together with the striking qualities apparent upon clinical interview, would suggest the absence of Axis I pathology, but would strongly point toward the possibility of a personality disorder, most likely of a narcissistic type. On the basis of this examination, however, it cannot be determined that Dr. Hodge's current functioning is significantly impaired in any demonstrable way, or that his test performance reflects instability or incapacitation of the sort that would interfere with his capacity to pursue his professional activities.

Robert H. Goldstein, Ph.D.
Clinical Psychology

RHG:kn

RP 10

Daniel R. Hodge, M.D., J.D.
1645 Statler Towers
Buffalo, New York 14202
(716) 691-3300

June 14, 1990

Harold Levy, M.D.
2740 Main St.
Williamsville, N.Y. 14214

Dear Dr. Levy:

The **New York State Board of Regents** ordered this Black physician to undergo a barrage of **"Psych Exams"** and perennial **COUNSELLING**, even if **"he passes"** those **"Psych Exams."** Regardless of how little scientific validity, let alone, ethical and moral foundation buttressing that order, it must, as a legal and practical matter, be followed until such time as it is legally altered by a Court of proper jurisdiction.

Our **System of Justice** is, and ever shall be, one of **Ordered Liberty**. Even if the office holders writing those **ORDERS** are, under color of law, **KKKriminally** abusing the power of the office they hold, then **WE THE PEOPLE**, - individually or collectively - must make every reasonable effort to so follow such **ORDERS**, and then commence legally appropriate measures to get urgently needed relief from **OPPRESSION**.

Because **IF** we **arbitrarily** choose not to follow Court or **Administrative Orders**, **THEN** we by so - not following - those **Orders**, undermine our very method of promoting and retaining civility, which we want so much to uphold, implement and improve. We would then most assuredly fail to ward off that ever encroaching **foothold of anarchy** - actually or constructively - a matter which plagues so many countries around the world, but which, fortunately, does not pervasively infirm our sweet **Land of Liberty**, America. **IF** we can't, as American citizens, do even that much, **WHAT THEN** are we striving for in the end?

Yes, even as we approach the 21st Century, in this scientific-democracy, **The American Gulag**, like its Soviet analogue, is strategically, so very much a similarly unique, **"broad daylight"** manner of modern marvel and historical spectacle, as my dear brother, Solzhenitsyn, classically observed on the other side and edge of sadness.

If for whatever reason you felt that denying a Black man this form of acute relief - examining him by order of an Administrative Agency - was appropriate, then so state in writing so that this citizen can show the **Board of Regents** and the **Courts**, that he made a **good faith attempt to comply**, with even so onerous an order.

Thank you for your prompt attention to this matter.

Very truly yours,

Daniel R. Hodge, M.D., J.D.

Kildare I. Clarke, M.D., J.D., MSILR., FCLM

*6 Hazelton Drive
White Plains, New York 10605*

914-949-9064

Monday, July 16, 1990

Purpose of the Psychiatric Report and Medico-Legal Opinion

This Psychiatric Report and Medico-Legal Opinion is being made at the request of Daniel R. Hodge, M.D., in his effort to refute the purported medical and legal basis underlying an order, Calendar No. 10444, of the New York State Education Commissioner, suspending his license for 36 months, starting on May 16, 1990. After an actual suspension of 3 months, the order requires, that for the full period of a 33-month stay of execution, of the suspension of his license, as a condition of probation, that in addition to having his practice of medicine in New York State monitored, that Dr. Hodge undergo repeated psychiatric examinations and continual psychiatric counselling, even if he passes the psychiatric examinations.

The Medico-Legal Opinion also includes an evaluation of all the alleged substantive charges, of which Dr. Hodge was found guilty in the Report of the Regents Review Committee and which was recommended to, and accepted by, the New York State Board of Regents, with the only physician on the New York State Board of Regents, dissenting.

The Basis of this Psychiatric Report and Medico-Legal Opinion

- (1) The Order of the New York State Department of Education Commissioner, Calendar No. 10444, in the Matter of Daniel R Hodge;
- (2) The Report of the Regents Review Committee which has as attachments:
 - (a) From the New York State Department of

Health:

Exhibit "A" - The Statement of Charges.

Exhibit "B" - The Report of the Hearing Committee.

Exhibit "C" - The Commissioner's Recommendation.

(b) From the New York State Department of Education:

Exhibit "D" - Terms of Probation of the Regents Review Committee;

- (3) The Report of James W. Bartlett, M.D., Professor of Psychiatry, University of Rochester Medical Center, School of Medicine, Independent Psychiatric Examination of Daniel R. Hodge, M.D. pursuant to the July 18, 1988, Order of the Hearing Committee of the State Board for Professional Medical Conduct, New York State Department of Health,

Attachment:

The Psychological Evaluation of Daniel R. Hodge on August 20, 1988, by Robert H. Goldstein, Ph.D., Clinical Psychology;

- (4) The Respondent's Analysis and Synopsis of the Report of the Hearing Kkcommittee (revised edition), The University of the State of New York;
- (5) In the Matter of Daniel R. Hodge, M.D., State of New York, Department of Health State Board of Professional Medical Conduct,
The Respondent's Affidavit Of Defense In Support Of A Motion To Dismiss All These Mediocre White Racist Charges In This Axelrod Instituted And Inspired Conspiratory Sham-Of-A- Proceeding, Hallelujah!;
- (6) Hodge vs. Kelly et al.,
- (a) Petition For Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit,
- (b) Brief In Opposition,

- (c) Reply Brief,
 - (d) Petition For Rehearing;
- (7) In The Matter Of The Arbitration between The Public Employees Federation and The New York State Department Of Correctional Services, American Arbitration Association, Grievance: Daniel R. Hodge, M.D., J.D., Notice Of Discipline: November 10, 1987, Case No. 15 E672 0042 87, Motion To Dismiss and Affidavit, September 22, 1989;
- (8) Closing Argument On Behalf Of: The New York State Department Of Correctional Services, In the Matter Of: 15 E672 0042 87 PEF (Daniel Hodge) and State Of New York Department Of Correctional Services, Submitted By, David Riley, Labor Relations Representative, November 17, 1989;
- (9) In The Matter Of The Arbitration between The Public Employees Federation (Daniel R. Hodge, M.D.), and State Of New York Department Of Correctional Services (Attica Correctional Facility), American Arbitration Association, Voluntary Labor Tribunal, Arbitrator's Opinion And Award, January 25, 1990;
- (10) A draft of a planned suit by plaintiff Daniel Hodge, against multiple defendants and having various distinguished co-plaintiffs, to be brought in New York State Supreme Court, in the County of Erie;
- (11) Clinical Evaluation:
Daniel R. Hodge, was seen by me on June 15, 1990, from 8:30 AM to 12:30 PM, in a clinical setting at my office, at The Kings County Hospital Emergency Room, where I've been Associate Director of Emergency Services since 1979. Some of the materials listed above as items 1-10 were sent to me in advance to facilitate the progression and enhance the

quality of the evaluation.

Methodology and Approach

The premise of this psychiatric evaluation is that actual behavior is the only data in mental health diagnosis that all diagnosticians would agree is relevant. Inferences about covert thoughts or feelings can and are derived from observations of actual overt actions. Statements about underlying disease processes, are ultimately, nevertheless, speculations, whether based on interviews, psychological tests (which are simply, more or less, structured behavior samples) or whether founded on other observations or accounts of competent and reliable witnesses, (the only valid factual data).

Moreover, even though the label or the shorthand notation and abstraction of mental disease, may be at times a useful tool in a limited number of cases, there is an inherent logical fallacy which underlies the notion of mental disorders as deviations from norms. There is the implication that mental disorders are like physical illnesses, where the structural or physiological aberrations of the human body, are causative forces, in what is sometimes even a cascade of events, in the disease process.

The measurements of these medical aberrations are concretized as variations from statistical norms, whether of gross anatomical (e.g., a septal or valvular heart defect) or fine structural features, such as hemoglobin (e.g., in sickle cell anemia) or sodium or cortisol, etc.

The norms in mental disorders, however, are stated in terms of non-medical, psychosocial, ethical and legal concepts, so that the definition of the mental disorder incorporates some perceived "problem of living" disharmony, expressed as unacceptable ideas, and framed in an unusual idiom to further confuse the already value-laden, non-medical consideration. And the terms and methods through which the remedy is sought to be prescribed are similarly over burdened with value-dependent contraptions.

The psychotherapist widely practices his skill which entails comparing his values as observer (the mentally healthy)

to the values of the observed (the mentally sick) and doing nothing other than restoring the patient from a state of mental sickness to mental health, with allegedly no problem of ethics and values arising in the process. Yet, the bulk of psychotherapy revolves around the elucidation and weighing of goals and values, not around pills and medicine or related to brain disease which belong in the realm of neurology.

It seems reasonable then to have different psychiatric therapies expressly for each of the ethical positions which these therapist embody, and for patients ranging from religious persons to agnostics, atheists, Jews, Catholics, communists, republicans, democrats, white supremacists, Blacks, Indians, and so on. People seek psychiatric help in accordance with their social status, ethical beliefs and personal goals.

Our only rational means of reducing the untoward effects of the "problems of living," labelled as mental disorders, is to acquire a better understanding and to take appropriate actions based on such understanding. If the patient seeks assistance, that is one thing, but if the evaluation is by Court or an administrative body order, then a whole new ballpark of consideration must cloud our perspective.

Whose agent is the psychiatrist? Is she a truly and totally independent professional? Does it really matter what label is placed on the psychiatrist when it is clear he, like a preacher, comes with a denominational emblem prefixed unto his forehead? Is the psychiatrist for the State, or for the Respondent, or the Petitioner? Shouldn't that, in and of itself, raise questions about the validity of these respective advocacies and expected positions, that will be apportioned on the issues presented?

And is the psychiatrist being used, to effect the outcome of some other conflict, having a covert motive of its own, with no benefit whatsoever related to the prescribed therapy? Is the recommended Court or an administrative body ordered "therapy" in reality a punitive measure, with its very own special design? What is the point of a "therapy" which, as in the Matter of Daniel R. Hodge, M.D., proceeds doggedly for exactly 33 months - and for no more or less time - irrespective of the

outcome, whether that "therapy" be beneficial or detrimental?

Furthermore, what need would a Black physician have - and for what type of counselling, even then - who is described by the State's very own, appointed psychologist as having a verbal IQ corresponding to a superior range of intelligence, and a factual knowledge corresponding to a very superior performance, and a demonstrated good attention and concentration as reflected in his ability to repeat seven digits and reverse an equal number?

How might a psychiatrist assist in improving such a performance? Or is there a covert motive being effected to accomplish just the very opposite, by degrading an intellectual achiever, who is a political dissident, with the social stigma attached to and associated with an alleged "mental disorder," and having a "need for counselling?"

The burden clearly shifts to the Court or an administrative body, ordering the counselling, to unequivocally specify the particulate problem or problems it envisions as needing remedial attention. There must also be a showing why counselling should continue regardless of the outcome of that remedial action. What is basis for, and what is particularly appropriate about, the length of time prescribed for remedial action, and more specifically how did the prescribers arrive at that period?

The answers will become clearly obvious in this report.

A Colleague And Friend

Few others are in a better and more substantial position to evaluate Dr. Daniel R. Hodge, M.D., than this evaluator, who has observed Daniel Hodge over a period of almost twenty (20) years. (We were students in medical school together, he being only one year my junior). The following account is made obviously not from all direct observations of each move Daniel Hodge made, or on all documentary evidence alone, but the history is in parts based also on hearsay, anecdotal accounts, and on circumstantial and inferential evidence.

In that sense it is testimony without the benefit of cross-examination, the same as an affidavit, and in this case, a

physician/attorney work product. With those infirmities on the table there is still the problem of my personal bias and views. That matter is always subject to criticism by the most decisive reviewer in the world: The reader.

It is true that such a long term acquaintance with Daniel Hodge, would appear, and could easily be the basis of a valid criticism - that a colleague and friend - even though by no means considered close, is likely to be highly biased, creating a flattering, self-serving analysis and opinion. But the most useful tests of validity of this analysis and report, and even the tests and results of the State sponsored psychological reviewers, are what the plain facts show: In almost two decades, Daniel R. Hodge, has only become more skilled, and has more intensely and sharply focused his energies, on the eradication of the social disease of racism.

Personal History

Daniel Robert Hodge, was born on April 29, 1944 on the French side of the island of Saint Martin, in the West Indies. He is the third of four children born to August H. Hodge (b. May 5, 1913 d. April 10, 1988 at age 74) and Lucie G. Hodge (b. September 17, 1921 d. May 16, 1990 at age 68). **[Note: In reproducing this document for the Supreme Court of the United States, Petitioner, Daniel Hodge, in order to protect the confidentiality of family members, relatives and former wives, etc., uses the same symbol "XYZ" for all]** He has two older sisters, XYZ (b. December 22, 1941), who now resides in St Croix, U.S. Virgin Islands and XYZ (b. April 8, 1943), who now resides in Ocala, Florida and a younger brother XYZ (b. August 5, 1945), who now also resides in St Croix, U.S. Virgin Islands.

Daniel R. Hodge, spent his first five years mostly with his paternal grandmother, because of socio-economic necessity, since all the siblings were born barely a year apart, and their father had to work on several islands around the Caribbean during and post World War II. Their father then found a job in the Lago Standard Oil Refinery on the island of Aruba and the family moved there, first, the sisters and their mother in 1948, and a year later, the two brothers in 1949. Daniel and his

siblings attended Dutch school, in Aruba and the family immigrated to the United States in May, 1957 and lived in Jamaica, Queens County, New York.

Daniel Hodge attended Junior High School # 40, where at first there was a problem equating the various levels of background school performance: He had already taken one year of algebra, in the seventh grade in Aruba, but had little formal english grammar and no American history, it had all been Dutch and European. He then attended Jamaica High School in 1959, where he did well in the sciences and languages, (he took French and Spanish) and reasonably well in math and history, and low average in English. He graduated High School with an Academic Diploma and with a science and language average in the mid 80's but an overall average in the high 70's. He never dated in High School and graduated in 1961 at the age of 17.

In College Daniel Hodge received A's in chemistry, physics, calculus, organic chemistry, even German, but did average work in most other subjects. He had attended New York City Community College in Brooklyn, New York, at night at first, worked as a messenger and in an office mailroom, in New York City, then later attended college full time, obtaining a two-year degree of Associates in Applied Science in February 1966. Daniel Hodge then started to work as an Industrial Laboratory Technician, at American Cyanamid in Stanford Connecticut and got married in March 1966 to a young woman of the same age, XYZ, from British Honduras (now Belize) whom he met in the Seventh Day Adventist Church, which he regularly attended, and sang in the choir.

Daniel Hodge moved to the East New York section of Brooklyn, the "heart of the ghetto" as he describes it, and became the superintendent of the building in which he lived. He learned the practical aspects of plumbing, electrical, plastering, painting, repair and maintenance and daily commuted 35 miles to his job, at American Cyanamid in Stanford Connecticut, against traffic, in a Volkswagen, usually in 55 minutes.

His first daughter Sabrina, was born in 1967. He resigned from American Cyanamid to attended Brooklyn

College full time but returned to work at American Cyanamid as a Chemist, after obtaining a Bachelor of Science in Chemistry in August of 1968. He then worked at Hooker Chemical Co., in Hicksville, Long Island where he had his first encounter with employer resistance to his attempts to further his education. The manager, who was impressed with the fact that Daniel Hodge could draw the structure of a class of compounds called urethanes, during the hiring interview, nevertheless, refused to allow a professional chemist, who worked hard, cleaned up the laboratory, instituted safety measures, and who was not required to punch a time clock, to leave even five minutes before "quitting time" to beat traffic and be able to go to night college.

Attending the night college was for the purpose of completing some pre-requisite Medical College courses in Biology. Said Daniel Hodge, "It never ceases to amaze me, why some employers will go out of their way to thwart an employee's effort to expand his or her educational horizons." Daniel Hodge moved to the Crown Heights section of Brooklyn, a considerably better neighborhood, and about ten blocks from Down State Medical School but it was not at all satisfactory to his wife, who moved to Queens with Daniel Hodge's parents in an effort to force Daniel Hodge to move out of the "ghetto and from around Black people."

XYZ was of the same complexion as Daniel Hodge but, he said, "She had a mentality which so harmoniously conformed to white values as to arrive at the point of self-hate." She wanted to move to Howard Beach, because some of her Italian friends on her job lived there. XYZ even underwent plastic surgery to convert a flat Maya Indian nose into a pointy "white" one. Daniel Hodge then rationalized that if his wife was given all the conveniences and middle-class trappings, she would return and perhaps go to college simultaneously as he made the sacrifice of attending Medical School.

Daniel Hodge, furnished their four room apartment with a clothes washer, dryer, dishwasher, tilt-in double-pane replacement windows, a burglar alarm system, wall-to-wall carpets, color T.V. (a rarity in 1971), a stereo set, and Strauss

crystal chandelier. She returned, but not for long; the couple was separated in 1972, and divorced in 1974. XYZ had a son for, and later married a white man who was himself previously married to a Black Haitian model. It was apparent, said Daniel Hodge, that XYZ acquiesced and so totally merged into "whiteness" and white supremacy values, as to be truncated from her Black body, to become in essence a racial transvestite.

Daniel Hodge had to move on, but the task of trying to repair that marriage, coupled with the fact of having to work long hours to support himself, had taken a toll, and his Medical School work suffered.

Medical Education and Residency

Most ironically, it was Dr. Hodge's run in and feud with the Down State Medical College, Department of Psychiatry which sparked his first battle in the war against "white racism and mediocrity" terms that have been on his lips a very long time. When Daniel Hodge first appeared on the Down State Medical College scene in 1971, he was a Black intellectual of middle-class values, who for the most part had learned to circumvent and live, in what he felt to be the most condescending term, with systemic, white racist bureaucracy. "I was a mere freed slave," as he terms it these days, not as the liberated Black, which he considers himself to now be.

In his second year of Medical School, no different from the first, Daniel Hodge rarely attended formal lectures, in the large lecture halls where his absence was not so easily detectable. In the smaller associated laboratories and study groups, anonymity was, however, another question. A psychiatry resident conducting one of the small "study groups" to which Daniel Hodge was assigned, but never attended, in psychiatry, called Daniel Hodge at home to warn that attendance was required as part of the grade.

Daniel Hodge in a speech to convince the resident to move on to someone else, made among other things, the impertinent comment that he had no interest in psychiatry whatsoever and that psychiatrists were the least well adjusted

people because they had the highest suicide rate of all physicians. Daniel Hodge then agreed to attend the small groups - often falling asleep. It was perhaps perceived as a sign of disrespect. That same psychiatry resident marked the essay examination and Daniel Hodge was failed in psychiatry which he considered equivalent to failing "cooking & sewing."

That dirty attendance habit also caused Daniel Hodge problems in laboratory medicine, which also required attendance. Pharmacology examination found Daniel Hodge (a notorious crammer) the night before, repairing a toilet bowl, which had flooded - as so many did - because of a kid's toy or maxy pads. Daniel Hodge missed passing Pharmacology by three points receiving a 67 when 70 was passing. He often told fellow students, when they eventually did see him, that all he wanted was one point above passing. In April of that year, 1972, separation and child support had entered the equation and measurably reduced his efficiency, no doubt in all aspects of his life.

Daniel Hodge who had received A's in college chemistry, physics, calculus, organic chemistry, even German, had to repeat the second year of Medical College for failing "cooking & sewing," as he describes it. The academic rules at that time were, that with failures in more than two subjects, no summer school make-ups were allowed. Daniel Hodge's vigorous protest to the President of the Medical School, in a two hour private conference, didn't help his case, but the following year the rules were changed, to allow a-three-subject failure student, to make-up those deficiencies in summer school. Even then, Daniel Hodge still did not attend classes.

Those who know Daniel Hodge, know of his generosity to fellow students, not only in monetary terms, (paying the full month's rent for a student friend, saying when you become a doctor, this will be peanuts, just don't forget to help someone else not me) but in terms of his giving of himself, his attention, his kindness, to those in need of his services. And there were many who benefitted, whether it was from such skills as plumbing, electrical, plastering, painting, or maintenance repairman in this Black Brooklyn community. Daniel Hodge

owned and managed property and worked daily including weekends, throughout his training at Medical School, getting up at 2:00 AM to study until 7:30 AM, and most naturally, rarely attending classes, then falling asleep in others, but showing up for exams.

Daniel Hodge, was much encouraged by the progress Black students were making, both in terms of increasing their enrollment and the more important factor, staying in Medical School. There was a fierce political battle being waged by the Black students the year prior to Daniel Hodge's arrival at Down State Medical School. There was an underground white student clique which passed old examinations and lecture material to only their white colleagues. A major victory was won when clear and convincing proof of the clique was uncovered and presented to the school administration. From then on all exams must be placed in the library.

There developed as a result a close network of some of the Black students. There was inaugurated, even a Black student day, with special and prominent Black speakers being invited, like Alvin F. Poussaint, M.D., a prominent, Black psychiatrist, of Harvard Medical School, who now serves as a script consultant for "The Cosby Show." Daniel Hodge commented that Dr. Poussaint's "Afro" was "bigger than mine." The post-sixty Black power era had come into full bloom, and Daniel Hodge planted himself in its midst to develop firm roots, and has remained a dauntless maverick to this very day.

In the totally elective fourth year of Medical School, Daniel Hodge, took an elective in infectious diseases with one of his favorite clinical instructors, Dr. Seligman, and met Dr. C.M. Kunin, the urinary tract infectious disease expert. Among other electives, were Pulmonary Medicine, Endocrinology, ENT (Ear, Nose & Throat) even Podiatry (for two weeks) and many others, all in his effort to get as good and as widely varied an exposure to practical walk-in and emergency room type problems.

During his internship, Dr. Hodge was a happy, energetic, achiever with a rare sense of humor, who was a workaholic, coming in even on his days off, to draw bloods and

get his laboratory results entered on the charts for 7:00 AM rounds. Unlike his attendance in Medical School, Dr. Hodge practically lived in the hospital. He has always been a no nonsense earnest physician, who is very demanding of others when it relates to professional performance, a quality that has at times caused considerable tension between him and co-workers. But he always got the job done. His assessment of the qualities needed to be a good physician was that, "after all your education, it's only what your mother taught you that really counts."

A laboratory technician, for an example - and there were quite a few such conflicts - who complained that Dr. Hodge as being rude, crude and demanding because he had insisted that she "drop everything" and do a blood gas, paid Dr. Hodge the greatest compliment when, not even two months later, she came to the ward and insisted the Dr. Hodge take care of her aunt, who was admitted to the pulmonary ward.

Dr. Hodge, of course, obliged but quipped that she could procrastinate as much as she wished with her aunt's urine samples but must still, "drop everything" (gesturing at her underwear) and do a blood gas, "even if it was for her aunt." The medical students, nurses and nurse's aides roared.

Daniel Hodge during this clinical evaluation, said that there is a tendency in our society, and around the world to be abstract when actual data is needed, to be circumspect when direct action is needed and to take on tasks insincerely, unconcerned about outcome or who may be harmed. "I won't ever be part of that wishy-washy system."

Dr. Hodge did his post-graduate second and third year residency at The Brooklyn Hospital which at the time was affiliated with the now defunct Cumberland Hospital. At Cumberland Hospital he gained a reputation as an astute manager of critical patients, of doing almost all the work personally, leaving very little in the control of others if at all possible. He didn't trust (and still doesn't) automated pumps to deliver insulin to Diabetic Keto-Acidotics in coma, preferring to inject 10 units of regular insulin deep, intra-muscularly every hour, simultaneously as the electrolytes and arterial blood gas

are obtained.

Dr. Hodge also gained a nick name of "Dr. KTC" given to him by a fellow resident because Dr. Hodge would, when it was not clear why a fever persisted, start triple antibiotic therapy with a very wide spectrum regimen of "Keflin, Tobramycin and Carbenicillin." It usually worked well. Pivotal decision-making is often controversial in most medical management situations and Dr. Hodge has had his share of such contentions.

An attending who gave instructions during morning rounds, that a 91-year-old, semi-comatose patient be left alone, found the patient intubated, on a respirator, on the famous "KTC" regimen, bronchodilators, insulin, digoxin, diuretics, with a condom catheter, and on a thermal blanket, that evening. The attending physician was fuming. Next morning, the patient was fully responsive, and pulled out his endotracheal tube, two days later. At which point Dr. Hodge said to the attending, "that's a sign that it's time to send him home, instead of heaven . . you know . . out, instead of up."

Dr. Hodge was well liked by his fellow residents and co-workers. He worked for a fellow resident the night before that resident had to take the Flex pre-licensure examination. There is nothing unusual about swapping nights on-call among residents, except that in the calculation of Dr. Hodge, that special occasion, for so worthy a cause, need not be repaid by that resident. He did the very same thing 6 months later for another resident, because as he puts it, "It's the kind of joy many people never get to know, of helping not when it's convenient for you, but just that moment in time, when someone needs your help the most."

Dr. Hodge also became "an intern for a night" whenever one of his interns who was pregnant, was on call with him. He would let her sleep all night and took all her admissions, just as if he were the intern. Her husband, who was an attending in pulmonary medicine, came to the ward to personally thank Dr. Hodge each time, and he indeed took time out to instruct Dr. Hodge in that field. Appreciative patients gave Dr. Hodge gifts like, candy, fruits, flowers, phono records, book ends and pens.

Dr. Hodge felt (and still feels) that his residency gave him an opportunity to learn to deal with almost any of life's problems, not just medical problems, but problems of humanity.

Dr. Hodge, who speaks Dutch fluently, having lived on the island of Aruba from age 5 to 13, learned to speak Spanish fluently here in the New York City, and it was a major asset in Kings County Hospital and is in any New York City hospital. In College he learned a fair amount of German, a closely related language to Dutch, and his linguistic achievements also speak well for the fact that he is a self-taught master.

Dr. Hodge worked in Emergency Rooms after finishing his residency; he had no interest in a sub-specialty. He bought a practice in the World Trade Center and attempted to build it up by offering an emergency service with a stand-by ambulance, to corporate tenants, forty of whom endorsed the concept. It never really got off the ground for financial but more dreadfully, he felt, because of medical politics and economic racism. He was asked why did he feel that way, when statistics show that any number of firms fail for less substantive defects.

Dr. Hodge reasons that Citibank, declined his \$ 500,000 loan application, but could lend foreign concerns billions and sustained more billions in losses of principal and interest. Dr. Hodge, had responded to several of Citibank's employees who became ill on the job. The bank was among those who had endorsed the standby-ambulance concept for the more than 50,000 people who work in the Twin Towers daily. The emergency service projections showed that it was economically feasible if only 2000 people paid a dollar per month. The loan was nevertheless declined, and the project and the practice fizzled.

Similarly, Savings and Loans went down the tubes for billions, Dr. Hodge said, investing money anywhere but in the communities from which they collected it. Even one of Dr. Hodge's own tenants, "a red-lining racist bank," he retorted angrily, breached a \$ 3500 a month, 8 year-lease, while simultaneously refusing him a mortgage for \$ 350,000 to rehabilitate the very building, in Crown Heights, a stable Black community, in which the bank was a tenant (and still is), only

now, of the new owner. If he knew then what he knows now, after having completed Law School, he would have been a millionaire many times over, Dr. Hodge said.

In 1983 Dr. Hodge moved to Buffalo where his second wife was attending Medical School. He worked at Attica Prison as a clinical physician and later in emergency rooms. He voluntarily taught physician assistants, nurses and pharmacy aids on various medical topics at Attica Prison, and received good evaluations for two years. Dr. Hodge decided to attend Law School, applied, was accepted and started attending classes in August 1985. It was then that his troubles began. As Dr. Hodge describes it, "There is nothing that can be advanced to explain why a bunch of people, would concertedly do what they did to stop me from furthering my education, except raw racism, in its most despicable form." Dr. Hodge's accounts of these matters are chronicled in his Petition for Certiorari and his other papers.

Dr. Hodge rarely attended classes in Law School after his routine weekly clinic schedule of 1:00 - 6:00 PM was changed abruptly to a never before and never since schedule of 10:00 AM -4:00 PM. Dr. Hodge said that the new schedule, which was in violation of a work contract, was spread over two shifts to purposely preclude Law School attendance. Dr. Hodge's legal war has seen many battles over the past four years. In addition to the Attica Prison race discrimination suit, Dr. Hodge sued the Lake Shore Hospital. Two physicians in concert with the hospital administrator allegedly dropped Dr. Hodge from the emergency room physician's roster, even though the Lake Shore Hospital Board had extended Dr. Hodge's privilege to work in the emergency room for two years.

There were also two arbitrations at Attica Prison and an administrative hearing which resulted in the New York State Education Commissioner's Order presently at issue. He plans to continue waging his war against what he perceives to be, "a social behemoth that I can never, ever accept." Dr. Hodge is preparing an Article 78 proceeding for review of the New York State Education Commissioner's Order.

The price of his legal campaigns have been costly, not

only in emotional but in monetary terms. Dr. Hodge's income has dropped from a gross/net before taxes (of 214,000/130,000) in 1987, to (140,000/80,000) in 1988, to zero in 1989 and zero so far in 1990. He has had to sell property, to borrow from friends and relatives, and has defaulted on even the few lines of credit that he had remaining after his 1983 business fiasco. He is in serious economic trouble, he said.

To top it off, Daniel Hodge, whose objection to a Hearing Examiner's disposition was denied, was adjudicated in Erie County Family Court, in March 1990, as having, "willfully and intentionally" violated an order of support. A mere two hours before it was to take place, Daniel Hodge, was able to effect an Appellate Division, Fourth Department order, staying a hearing scheduled to determine what punitive measures should be taken against and imposed on him, ranging from incarceration, to probation, to undertaking. The matter is now on appeal.

The Family Court petition for "non-payment" of an order of support was brought on in August of 1989 by his ex-wife, now known as XYZ, M.D., for mere "slow payment" of \$800 per month, because Dr. Hodge had been two months late throughout 1989. He had supported her through all four years of her medical school training, along with her two sons of her previous marriage, whose father never supported them.

Dr. XYZ now has a private practice in Obstetrics and Gynecology, lives in a \$300,000 home in East Amherst, N.Y., and alleged in an affidavit during the proceeding that her "expenses" were \$196,000 for 1989. On September 1, 1989 she was placed on probation for a year for repeatedly (for three years) denying Dr. Hodge visitation with his children. Dr. Hodge says, that it is so obvious she retaliated for her having been placed on probation.

Social History

Daniel Hodge neither smokes nor drinks nor uses drugs other than those obtainable over the counter or prescribed justifiably. His diet consists of fish, chicken, vegetables and fruits but no pork. He was brought up as a Seventh Day

Adventist who "kept the sabbath" from sunset Friday to sunset Saturday, (like a Black Jew he says) until he was 20 years old; his siblings still are fervent members of that denomination. Daniel Hodge is heterosexual, was married three times, and is now legally separated from his third wife, with whom he has retained an amicable relationship; he does not communicate with the first two.

Daniel Hodge has five children: XYZ, female 22, XYZ female 10, XYZ male 8, XYZ male 6, and XYZ female 5. Dr. Hodge has a high level of commitment to his children and is very concerned about their education. He spends every other weekend with two of his children, XYZ female 10 and XYZ male 6, in Buffalo, and he talks with his children, XYZ male 8 and XYZ female 5, in Orlando, Florida, frequently and visits them about three times a year, on average. He talks a reasonable number of times, to his oldest daughter XYZ female 22, who lives in Boston, Massachusetts, and like most adults, has her own interests which now occupy her attention.

The four younger children all have little battery operated computer keyboards, which he insists that they master and become "keyboard literate." He teaches them to be proud of their Blackness and to develop every talent they possess. "It can't all be T.V. and video games, it includes your keyboard and your little dictionaries," he says. Dr. Hodge quoted the result of an ongoing study directed by Diana Baumrind of the University of California at Berkeley, which found that,

"Parents who consistently set down clear standards of conduct and offer freedom within specific limits, produce teenagers who perform better on academic tests, are more emotionally and socially stable and use alcohol and illicit drugs substantially less than youngsters from other types of families."

Mental Status Examination

Psychiatrists know that in a Mental Status Examination, a subject can provide a wealth of information without saying a word. They also know that formal Mental Status Examinations using structured questions, like asking the interpretation of a

proverb or doing simple arithmetic problems, can destroy some of the rapport with the subject, and particularly a person who is a colleague and who has had so many Mental Status Examinations within the past two years.

There is also the problem that abnormalities in mental function can go unnoticed in an unstructured interview. And so for those reasons, this Mental Status Examination was very formal and Dr. Hodge was most cooperative. Nevertheless, he is a man with a rare sense of humor, and an uncontrollable master of parody, puns and poems one of which "The Fort McHenry Blues" which he gave me during the session, is attached to this report. It attests to his judgment, insight and his creative genius.

The format of the Mental Status Examination is one used by R. Waldinger in his Fundamentals Of Psychiatry (1986)

Appearance and behavior

Dress and grooming - Three-piece, pin-striped, dark grey business suit, blue shirt and matching tie. Well-groomed, salt-n-pepper greying hair, short hair cut, trimmed handle bar moustache.

Posture and gait - Up-right posture, normal gait, arms hanging loosely and equally at the sides, normal stride of equal length, smooth and uniform movements of both upper and lower extremities.

Physical characteristics - Young-looking, lean, energetic man, in good physical health.

Facial expression - cheerful, pleasant, accommodating, appropriate to the conversation and concern.

Eye contact - frequent and suitable.

Motor activity - regular, balanced, even, calm, smooth, graceful movement.

Speech

Rate - variable, unpressured, appropriate, paced and proportioned to articulation.

Pitch - low, resonant, baritone, alterable with voice inflection.

Volume - pliant, calibrated, moderate.

Clarity - intelligible, distinct, articulate.

Emotions

Mood - even temperament, sincere spirit, devoted, patriotic with great expectation that, "soon the great institutions of this country will indeed fulfil their promised function and their noble design." Dr. Hodge said that he has never one day in all these struggles felt depressed. It is not denial on a grand scale, it is faith, that he will be ultimately vindicated, he said. It's just a matter of time, he said.

Affect - a predominant affect of appropriate concern about his present predicament, but seems in no way convinced that the oppressors will succeed. Dr. Hodge feels that this administrative decision will be dismissed without a problem, on appeal.

Thought

Process - accurate associations of concepts, and inter-connections of ideas, proper flow of thoughts, logically coherent and comprehensive. Using the table of content as a guide, Dr. Hodge discussed the detailed accounts of his various medical documents, giving a brief overview of the problems and then effectively demonstrating why the alleged charges had no valid clinical and scientific merit.

Content - Dr. Hodge readily accepts the assertions and theoretical formulations of over a hundred researchers in his references, as being quite sound. These scientists among so many others, have, to a great extent, quite appropriately affected his thoughts, functioning and conduct both professionally and in his private, daily life, he said.

Distortions - many of Dr. Hodge's allegories, parodies, puns, poems and political caricatures, which he uses to fight-back, what he believes is a criminally corrupt New York State sponsored bureaucracy, have been pretentiously used, he said, by various, either defendants or prosecutors, as a nidus around which to build arguments to force upon him, the need for psychiatric examinations or counselling programs. But Dr.

Hodge says, that he will continue these campaigns, only now he will expand the imagery exponentially and more vividly become, "more crazier than ever before."

Preoccupations - Dr. Hodge said that he is, of course, very occupied (not preoccupied, because he spends every other weekend with two of his children in Buffalo) with being the best that he is capable of being because he enjoys learning. It is the same intensity of effort seen in athletes, musicians, actors and in almost any field. There is, consequently, absolutely nothing delusional about those kinds of dreams; they are, "what has made America great," he said. "A society should foster and promote such commendable conduct," he said, "not punish it under racist ruses and pretexts." The bureaucracy is threatened, Dr. Hodge said, in very real terms by his achievements, and once they have been adjudicated as being criminals, they shall realize that their wicked hopes and thoughts of being able to suppress Black people forever, under any pretext, is indeed wholly delusional.

Suicidal or homicidal ideation - no suicidal or homicidal ideation, however feels, as he says, in his usual, dauntless, most engaging style that, "The death penalty is too good for the New York State Governor, who opposes it self-servingly."

Perception

Illusions - none, but it would be too lengthy to describe his parodies here.

Hallucinations - at this point Dr. Hodge went into his, "It wasn't no alarm clock that woke me up this morning" . . . routine. And then moved in with the "hearing the voices" of the founding fathers, and seeing the Constitution on all six sides of the room bit. It is most hilarious and refreshing. He had to be reminded that he has to catch a plane.

Sensorium and intellectual functions

Consciousness - alert, attentive, bright, vigilant, vivacious.

Orientation - aware of time, place and person.

Concentration - the trick to doing serial 7's Dr. Hodge

said, was to know the right phone number. He said that the last digit follows a regular repeating progression according to (703) 692-5814, the trick is to start at 107, so, that it goes like this: 107, 100, 93, 86, 79, 72, 65, 58, 51, 44, 37, 30, 23, 16, 9, 2, - 5. Dr. Hodge said he has taken too many of these silly tests not to have figured out some kind of short cuts. He also has a phone number for serial 3's. This evaluator has never really paid much attention to these mathematical possibilities.

Memory Immediate - can recite 7 digits, forwards and backwards.

Recent - excellent, recites airline, flight numbers and times. He said he was very, very, prepared for this evaluation.

Remote - gave a complete and reliable account of Medical School events and other history with which this evaluator is mutually familiar, going back almost 20 years. Gave names and birth dates of all his children and his parents and siblings from memory. Named all 41 of the United States Presidents going back to Washington, and said he "remembers" them all. He then named them forwards adding a 42th . . Hodge.

Fund of knowledge - vast, aside from his medical and legal background, and his like of geography and astronomy, etc. Did this evaluator know that little Lithuania once stretched from the Baltic to the Black sea? Well, . . no. "Now suddenly," he retorted, "that empty aristocracy running it, want the average Lithuanian to give up ownership in one of the richest and largest countries in the world, based on some phony notion of independence, from the very source that feeds them. Why not just work to make the Soviet Union a more perfect union? Dummies!" Dr. Hodge's personality style is geared at generating healthy satirical witticism more so than raw purposeless exhibitionism. It also establishes his having a very keen, independent, mind, and style of thinking. That style has not changed in the almost 20 years that this evaluator has known Daniel Hodge.

Abstraction - normal thought processes, able to shift from general to specific conceptualizations. Interpreted various proverbs, but wonders when will psychiatrists get some new

more challenging ones.

Judgment - offered his Law School essay entitled, "One World at Peace Forevermore," written in memory of Dr. Martin Luther King Jr., in January 1988, as a prototype of what his judgment has afforded him, and how he predicted what the world socio-economic and political situation would be in five years. "It happened in three, and they say I'm crazy," Dr. Hodge said, "and I didn't attend classes and received just an ordinary grade for that honors paper." He quoted this passage from it:

"... the two super powers, now paused in a potentially holocaustic nuclear standoff, will for a host of practical reasons ignore their dogmatic differences, recognize their multiple similarities and beat their twentieth century swords into twenty first century plowshares. The differences that separate the two competing economic systems, Capitalism and Communism are minuscule and still shrinking compared to the magnetic forces that irreversibly bind them."

Insight - Dr. Hodge feels that the Order which forces him to have all these psychiatric tests, "is clearly concrete evidence of the machinations of an asinine white racist bureaucracy at its criminal worst," he said. It was commonly done in the Soviet Union to dissidents and intellectuals; it fostered a system of near perfect conformism by conditioned fear, Dr. Hodge said. To maliciously prosecute, degrade, defame, humiliate and destroy a man, and his property interest in his hard earned license, for no justifiably reason whatsoever, warrants a jail term for the perpetrators, he said. He then angrily said, "It is just not a little abuse of discretion or a minor misdemeanor, it is outright white-collar criminality, a murderous felonious act."

Attitude towards interviewer - This evaluator is most happy to be helpful, if at all possible, to a colleague who has met with such misfortune. Dr. Hodge called and asked whether it would be feasible to complete this matter in a hurry, but at the earliest, it would be a month. He had been refused appointments by a total of 7 Psychiatrists in the Buffalo area. He even tried to get Dr. Alvin F. Poussaint, who politely refused. What is not at all amazing to this evaluator is that, no body can destroy Daniel Hodge unless they take his life. His personal

strength is solidly based; he literally fears no one. He is still so very cheerful, so very determined.

Application to and Interpretation of the model of the personality disorder of a narcissistic type as it relates to Daniel R. Hodge

In the document which Dr. Hodge has used in his defense to the charges entitled,

The Respondent's Affidavit Of Defense In Support Of A Motion To Dismiss All These Mediocre White Racist Charges In This Axelrod Instituted And Inspired Conspiratory Sham-Of-A-Proceeding, Hallelujah!,

he quotes on page 16 of that document, a definition of the narcissistic person, which Dr. Hodge, (since he has arranged the elements in the sequential order in the definition), suggested that this evaluator use in the application, interpretation and refutation of the New York State imposed psychiatric study of Drs. Bartlett and Goldstein.

This evaluator has no problem with such a request because that definition fairly represents the common understanding of Psychiatrists of that classification of personality disorder in the DSM III - R, and moreover using the same model and elemental structure, will be helpful to Dr. Hodge, in supporting those arguments he had already made in his defense. In Harrison's Principles of Internal Medicine, Igor Grant, in Chapter 363 p. 2096 of the 11th Edition prefaced the personality disorders in general as follows:

Personality denotes characteristic ways of thinking, feeling, behaving and reacting to the environment. When this "psychological signature" strikes a useful balance between consistency and adaptive flexibility, we speak of personality traits. A personality disorder is said to exist when a person chronically uses certain mechanisms of coping in an inappropriate, stereotyped and maladaptive fashion.

As for his actual definition of the narcissistic person, Igor Grant used the following model:

The narcissistic person has an inflated sense of self-importance, and may be preoccupied with being unique, powerful and gifted. The patient exaggerates his

or her talents and contributions, seeks admiration, and uses others to achieve a better position, while being indifferent to their feelings and needs. A rejection can produce excessive rage, inferiority, shame or humiliation. The narcissistic person has difficulty seeing others in a realistic light, tending either to over-idealize or devalue them.

The substantive elements of the narcissistic person, according to the above model, were enumerated below by Dr. Hodge, merely for convenience and in the facilitation of application of the supporting facts and in analysis as follows:

- (1) has an inflated sense of self-importance,
- (2) and may be preoccupied with being (a) unique, (b) powerful and (c) gifted.
- (3) exaggerates his or her (a) talents and (b) contributions,
- (4) seeks admiration
- (5) and uses others to achieve a better position, while being indifferent to their (a) feelings and (b) needs.
- (6) A rejection can produce (a) excessive rage, (b) inferiority, (c) shame or (d) humiliation.
- (7) has difficulty seeing others in a realistic light, tending either to (a) over-idealize or (b) devalue them.

The facts obtained from the histories and Mental Status Examinations of this evaluator and the New York State sponsored psychologist, and from Dr. Hodge's comments as they pertained to each of those elements of the model, were distilled and are applied separately to the narcissistic personality disorder as follows:

- (1) has an inflated sense of self-importance.

New York State sponsored psychologist, Dr. Robert H. Goldstein, Ph.D., said in regard to this "inflated sense of self-importance," matter, on page 4 of his report, that,

"On projective tests, again, the pattern is not a

particularly pathological one. He demonstrated an overall adequacy of reality testing. There were indications that he may be subject to periods of somewhat increased ego inflation, and other periods of lowered self-esteem when his experiences do not match his expectations."

"In summary, the examination reveals Dr. Hodge to be a man of good intellectual ability whose potential probably falls in the Superior range of intelligence, but who may not always function at that high level."

Dr. Hodge said, that he took this 7 hour-test, playing with blocks and pictures and put up with answering a bunch of silly questions. Then that empty white racist, Goldstein, calls me a Nigga with a "Superior range of intelligence," said Dr. Hodge and then still thinks I have increased ego inflation because I said that I'm Black, brave and brilliant two years before Goldstein's testing even began.

Dr. Hodge said, that Mohammed Ali, started out as Cassius Marcellus Clay, saying he was the greatest, reading poems, proclaiming invincibility in doggerel verse and predicting in what round he would knock out his opponents. He generated a lot of publicity because as many people wanted to see him eat his words as wanted him to win. Dr. Hodge said, that he hasn't even been allowed in the ring yet and he is still campaigning as Ali used to call his media displays.

Comment:

This evaluator notes that qualifying and quantifying such highly subjective, value-laden, and relative terms as "inflated," may pose some problems in this and in any analysis. Dr. Hodge's "campaigning" is designed to taunt and ridicule his white accusers as being less intelligent than he is. They are pictured as not having the ability to even understand the medical substance of what they are charging as professional misconduct, let alone fathom his scientific defenses to those charges. It is his way of eventually exposing them as frauds and as being perpetrators of a malicious prosecution.

Dr. Hodge's provocative gesturing, mockery and

derision may be directed not only at others but simultaneously at himself, e.g., "who dun got moh edjewkazhun dan 220 million white folk." The statement depicts an illiterate Black, degrading most of the white population, including, of course, the Jews and simultaneously displayed a psychiatric abnormality in thought process called neologism, sometimes seen in schizophrenics, who form new words or make condensations of several words, i.e., edjewkazhun. Not only is the word education misspelled by this "illiterate Black," but it emphasizes a cultural affinity of Jews for education, and their over-representation in the higher professions.

It is political satire and social parody of the most irksome, irritating and vexing variety. But our First Amendment even protects flag desecration, let alone caricatures, parodies and political satire of the Dr. Hodge assortment and of the type commonly seen in the pages of editorials and the vitriolic rhetoric of certain syndicated columnists.

This evaluator believes that there is no personal, centralized ego gratification and nourishment being derived by Dr. Hodge from his displaying of his talents and from mocking his oppressors and others. This evaluator views and considers that from those facts, and from the essence and usual meaning and interpretation of the sub-elemental terms "inflated" and "self-importance," that this element in the narcissistic personality disorder model as it applies to Dr. Hodge, is groundless and insupportable.

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- (2) _ and may be preoccupied with being (a) unique, (b) powerful and (c) gifted.

Dr. Hodge said, that he is, of course, very occupied (not preoccupied, to the exclusion of all else) with being the best that he is capable of being because he enjoys learning. He is never too occupied, to educate his children, a matter that he considers to be the only real and most cardinal responsibility that all parents have, after providing the necessities. The net quality of life in our society, he said, depends on that intransferable ultimate parental obligation. Surrogates can, of

course, assist but the final child-educating duty and responsibility irrevocably stays with the parent, Dr. Hodge said.

Dr. Hodge pointed out that, it is obviously far more costly to educate children than to provide necessities. And Dr. Hodge also feels that the vigilant guidance of children's daily progress (day in, day out) is that priceless, most essential commodity and ingredient for success, which is too commonly lacking in the child-parent relationship.

Dr. Hodge spends quality time every other weekend with two of his children in Buffalo. And has given his step-daughter the daily responsibility (as a young surrogate mother; she's 14) to see to it that the little ones in Florida, do their home work and their computer keyboard exercises before they play any video games or watch T.V.

Dr. Hodge fought in Family Court to win the privilege to install a separate private phone to communicate with all his children, simultaneously (without interference from his second wife, who hangs up the phone on little children wanting to talk to their half-siblings) and which could be used for a computer link-up. It is an un-implementable victory because he is financially unable at present to accomplish it, and to buy his children "real computers," he said.

Dr. Hodge has pursued his educational goals and achievements with the same intensity of effort commonly seen in athletes, musicians, actors and in aspirants in almost any field. There is, consequently, he said, absolutely nothing delusional or "narcissistic" about those kinds of dreams; they are, "what has made America great," he said. "A society should foster and promote such commendable conduct, not punish it under racist ruses and pretexts; they just hate to see a Nigga come from behind and pass'em all up," he said. Faith without works, said Dr. Hodge, is the same as that 10% inspiration without that 90% perspiration, that allegedly Thomas Edison, an uninhibited egotist, who was both a tyrant and entertaining companion to his employees, talked about.

To effect social change a person must have power, which in our system of government must only be obtained through lawful means, he said. But being lawfully elected is not

enough, Dr. Hodge said, because just being elected, doesn't qualify a person to do the job, particularly a job that demands vision, detailed scientific knowledge, foresight and imagination.

The office holder should be knowledgeable, experienced and, as Dr. Hodge advocates, must be scientific, dauntless, humane and eclectic. There are virtually no persons of that caliber in State or national government, he said, because those attributes just don't spring out of the woodwork. People like those are self-made, because they go out of their way to know, far more than the average person needs to know. Dr. Hodge said, a person can only make an informed judgment, if first he or she is informed.

In his report Dr. Robert H. Goldstein, Ph.D., said, on page 2, in regard to the political matter, of being preoccupied with being (a) unique, (b) powerful and (c) gifted, that,

"Dr. Hodge quite directly asserted the political nature of his orientation in these issues, and this was clearly reflected in his overt statement that 'I am a political being,' adding that he perceived his medical career as simply being a preparation for an active political life."

Dr. Hodge said that there is a severe paucity of scientific leadership in our present society and all around the world. The cardinal issues most pressingly concern biological, chemical, environmental matters. Dr. Hodge asked, how then can a President or a Governor or a Senator or a Congressman or a Judge do an appropriate job and function in a meaningful way, if none are properly informed or worst resist anything new and untried?

Dr. Hodge said that clearly a person who is simultaneously a physician and an attorney is in the most propitious position to handle the multiple biological, chemical, environmental matters with in depth understanding and in a meaningful and substantively legal manner. After all, said Dr. Hodge, the ultimate effector vehicle is a law and its appendant regulatory schemes, and a law can be no better than the foundation upon which it is laid.

Dr. Hodge said that regulatory schemes should not be easily susceptible to abuse of unconstitutionally vague and

arbitrary applications, particularly invoked for ulterior motives. That is precisely what has happened to me in this case, he said. Where the issues involved in the charge relate to esoteric and arcane matters, the charges must be highly specific, not generalized porridge conjured-up by people on the New York State payroll with nothing to lose, and who can inflict such immense damage before they are finally themselves adjudicated for white-collar crimes in bringing those fabricated charges, Dr. Hodge said.

The law should be, that before the New York State Board For Professional Medical Conduct serves its charges on a professional, that the Board must first have these charges reviewed by a number of independent practitioners, for a fee which is paid regardless of whether there is concurrence with the New York State Board For Professional Medical Conduct's impression of a violation. Such an independent check on the overzealous regulators, would save New York State a considerable amount of money and decrease the likelihood of injury to the professional.

Only a gifted and powerful (and Brave) person could fight a war against that corrupt New York State machine, said Dr. Hodge, because most people would have conceded and succumbed to a plea just to get rid of State regulators, even if the accused could prove they weren't guilty. The Constitution of the United States is the most powerful weapon against social injustice, known to mankind, said Dr. Hodge, but it requires skillfulness in using it. And if the forces of oppression even ultimately destroy me it won't be because I gave up, Dr. Hodge said. But they are going to have to face me at some point and I wouldn't wish that experience on anyone, he said.

Comment:

A man like Dr. Hodge, capable of carrying out such a detailed pro se medico-legal defense, as he has is "unique" and "gifted." Dr. Hodge, who feels he has been unjustifiably injured, thinks he is fortunate to have the talent, skill and strength to fight back. His interest in a political career and attaining lawful power to effect competent social change is consistent with the

conduct and expectations of any one seeking public office.

This evaluator asserts and maintains that from these many facts and the opinions of Dr. Hodge and from the nature and usual meaning and interpretation of the sub-elemental term "preoccupied," that there is no basis to conclude that Dr. Hodge "to the exclusion of almost all other matters," (the usual interpretation of the term "preoccupied,") did not fulfil his duties as father, or neglected other aspects of his life.

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- (3) exaggerates his or her (a) talents and (b) contributions,

Although being a doctor and also a lawyer probably requires more discipline than talent, Dr. Hodge said, is it an exaggeration to say that such persons have an extremely rare and unique talent? Of course, said Dr. Hodge, it is a rare combination. If it is indeed true that such persons are rare and unique, said Dr. Hodge, how can even a braggart doctor/lawyer be exaggerating his claim of possessing a rare and unique talent?

The Amazon river, volume-wise, is the largest in the world, said Dr. Hodge, and it is 150 miles wide at the mouth and discharges an average of 6.5 million cubic feet of water, into the Atlantic Ocean, every second. If some energetic announcer were to proclaim those fantastic statistics over and over in a loud voice, up and down the streets, then said Dr. Hodge, as long as he accurately stuck to the actual statistics, even as mind-boggling as they are, it could not be exaggerating.

Comment:

This evaluator agrees that to exaggerate in the ordinary use of the word, for an example in medicine, is to claim that a medication does more than it actually can. -Exaggeration describes the truth plus "more" where that "more" is actually false. Promoting a truthful statement, no matter how vociferously, without that "more," does not affect the veracity or validity

(4) seeks admiration

Is seeking admiration intermediate between asking to be recognized and crusading for adoration, Dr. Hodge asked? So the progression, in terms of uncovering potential narcissism, he said, would follow a linear or perhaps even a geometric scale, climbing from anonymity, to being satisfied to be unnoticed, to merely seeking recognition, to demanding acknowledgement, to extracting admiration. "Right?" he asked repeated.

Wanting to be admired for having done a good deed or accomplishing a noble feat is hardly unique or psychosocially pathological, he said. Any functional entity, ranging from a single soul to a corporate body, seeks admiration regardless of what form the accolade takes. People seek rewards ranging from a trophy, to a degree, to money. Self-serving corporate sponsorship of any number of programs, Dr. Hodge said, is tediously common, some endeavors being even remotely related or totally unrelated to the essence of corporation's central occupation.

Dr. Hodge said, that he made the undertaking to be a doctor and a lawyer for the personal satisfaction he thought it affords him, first. He also felt it would be a good way to prepare for public office and that it also would put white racists in a precarious position of calling a Nigga inferior, Dr. Hodge said. How can you call someone of any color with those qualifications inferior, he asked? It apparently has made the white racists quite uncomfortable and they are willing to risk incrimination to stop me, Dr. Hodge said.

Dr. Hodge said, that all he seeks are his constitutionally protected property and liberty interests to do with them what ever he wished and be able to earn a living in any lawful calling.

To the extent that he gains recognition for his good deeds and achievements, said Dr. Hodge, to that extend he as any good citizen feels contented that people may acknowledge his work. And if they don't recognize or acknowledge his good deeds and accomplishments, said Dr. Hodge, then that will in

no way impede his continued striving for excellence. "I am running against my own built-in clock," Dr. Hodge said, and if they want to look on and applaud, that's fine, but if they all got up and went home, he said, "I would still be out there running."

Comment:

This evaluator asserts that there is no tenable basis to conclude that Dr. Hodge seeks admiration for the mere gratification of being adored. Dr. Hodge instead wants only that his constitutional rights be recognized and protected, so that he can engage in any lawful occupation. If people recognize his work, then he would show his appreciation for their thoughtfulness. If they did not acknowledge his work then it would not deter him from still striving to be the best that he is capable of being.

- (5) and uses others to achieve a better position, while being indifferent to their (a) feelings and (b) needs.

Here are some important factual considerations, taken from the history section of this report, to counter this element of the narcissistic model:

With regard to his first wife: Daniel Hodge then rationalized that if his wife was given all the conveniences and middle-class trappings, she would return and perhaps go to college simultaneously as he made the sacrifice of attending Medical School.

With regard to fellow students in Medical School: Those who know Dr. Hodge, know of his generosity to fellow students, not only in monetary terms, (paying the full month's rent for a student friend, saying when you become a doctor, this will be peanuts) but in terms of his giving of himself, his attention, his kindness, to those in need of his services

With regard to his fellow physician residents: There is nothing unusual about swapping nights on-call among residents, except that in the calculation of Dr. Hodge, that special occasion, for so worthy a cause, need not be repaid by

that resident. He did the very same thing 6 months later for another resident, because as he puts it, "It's the kind of joy many people never get to know, of helping not when it's convenient for you, but just that moment in time, when someone needs your help the most."

With regard also to his fellow physician residents: Dr. Hodge also became "an intern for a night" whenever one of his interns who was pregnant, was on call with him. He would let her sleep all night and took all her admissions, just as if he were the intern.

With regard to his job as a clinical physician at Attica: He voluntarily taught physician assistants, nurses and pharmacy aids on various medical topics at Attica Prison, and received good evaluations for two years.

With regard to putting his second wife through Medical School, yet being sued by her for child support, when he is down and almost out, and unjustly being precluded from making a living: The Family Court petition for "non-payment" of an order of support was brought on in August of 1989 by his ex-wife, for mere "slow payment" of \$800 per month, because Dr. Hodge had been two months late throughout 1989. He had supported her through all four years of her medical school training, along with her two sons of her previous marriage, whose father never supported them.

Comment:

This evaluator finds that there is no ground to justify the conclusion that Dr. Hodge used others to achieve a better position, while being "indifferent" to their "feelings" and "needs." He in fact went out of his way to help others to reach short terms plans and targets. In addition, he was a major contributor to the long term goals of others.

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- (6) A rejection can produce (a) excessive rage, (b) inferiority, (c) shame or (d) humiliation.

In his report Dr. Robert H. Goldstein, Ph.D., said in regard to the emotional matter of (a) excessive rage, (b)

inferiority, (c) shame or (d) humiliation, that,

"There are signs of some degree of emotional lability, but there are also indications of adequate and appropriate control being available to him."

"As the level of emotional intensity of his responses increase, there was some pattern of an increase in activation level and heightened behavioral lability."

New York State appointed psychologist, Dr. Robert H. Goldstein, Ph.D., reported also that,

"Dr. Hodge brought along and gave to the examiner several additional letters and accompanying documents which he was preparing to send to various state officials."

"He made it clear that these various communications were designed to provoke and embarrass the various officials to whom they had been addressed, and that they constituted a form of political satire and parody through which he was expressing his intense anger and resentment of the treatment he had received."

Dr. Hodge said when it became so obvious that the Federal Judiciary made such a mockery of justice, from the local District Court, to the Circuit Court, to the United States Supreme Court ("that haven for white racist doctrinaires," as Dr. Hodge repeatedly said), he had no choice but to expose the whole Federal Judiciary as being mediocre as regards to civil rights.

New York State appointed psychologist, Dr. Robert H. Goldstein, Ph.D., reported further that,

"Despite repeated questioning, Dr. Hodge was never able to be entirely clear about what response he anticipated from these communications, or how he believed they would assist his personal case."

Any knowledgeable physician knows, Dr. Hodge said, that this malicious so-called administrative proceeding is a "vicious, white racist pseudo-scientific hoax," but nevertheless, look how far it has gone, all the way to the United States Supreme Court and back. "This kind of white-collar criminality can't be uncovered and resolved unless there is widespread

exposure within the government bureaucracy proper and in the media," said Dr. Hodge. My conduct is wholly lawful, controlled and will at some point be very effective, said Dr. Hodge.

Comment:

This evaluator considers it very unfortunate that Dr. Hodge is experiencing such adversity and five tiers of administrative rejection, if there ever was a more cogent example the element of rejection. But that rejection has sparked in Dr. Hodge, not "excessive rage," "inferiority," "shame" or "humiliation."

It has produced instead a well-controlled indignation, and a lawfully structured war, with battles being fought on all fronts, in Courts, Arbitrations, Administrative Hearings, Appeals, political and social pressure that will intensify as the need arises and in retaliation for acts of blatant injustice.

Although there is flagrant rejection of Dr. Hodge's quest for justice, there is no basis whatsoever for support of the sub-elements of "excessive rage," "inferiority," "shame" or "humiliation," in the conduct or thoughts of Dr. Hodge as those sub-elements reasonably could be applied to the model of a narcissistic personality disorder.

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- (7) has difficulty seeing others in a realistic light, tending either to (a) over-idealize or (b) devalue them.

New York State appointed psychologist, Dr. Robert H. Goldstein, Ph.D., in his report said of Dr. Hodge that,

"He may tend to identify himself with heroic leaders of the past, and may experience some need to contend with his environment in order to survive or progress in life."

"He has high aspirations, and tends to at times use fantasy or verbal aggression as a way of satisfying his basic needs for security and supplies."

"He told of a plan to travel with a large contingent of black Americans to Russia in order to assert the

presence of racial discrimination in this country via a demonstration in Red Square in an effort to embarrass the United States."

Dr. Hodge said, that most people don't know, can't see and even if they know, don't have the ability to envision that the greatest impediment to forming a more perfect Soviet Union is racism and religious intolerance, not only economics, because they inhabit a wealthy country and are a highly talented group of people, having a poorly managed economic system, coupled with being more or less, just about as racist as the rest of the white world. They need a Fourteenth Amendment badly too, Dr. Hodge said.

Dr. Hodge feels that when President Gorbachev allows the Black American Constitutional Symposium (BACS) to take place in Red Square, that the Soviet President will accomplish two important objectives, simultaneously.

First, said Dr. Hodge, the Black American Constitutional Symposium (BACS) will have as its theme, "the forming of more perfect unions in both the East and the West." That is right on target and it will quench the feverish seizure of secessionism. The logic being, that if these Black people, who are being mistreated in the United States, even then, still want to form a more perfect union, with their white compatriots, instead of establishing a separate Black nation State encircling the White House, then there is no reason Lithuania can't continue to get all the oil it wants, at reduced prices from those dark-skinned transcaucasians, in Baku while arduously working at forming a more perfect Soviet Union with Azerbaijanis and the other 14 Soviet Republics.

Rampant secessionism would most surely spell disaster for not only Soviet Union but the United States, since we would now, said Dr. Hodge, have to deal directly with an uncontrollable bunch of separate republics, which is a task better suited to Russia proper. If the United States thinks it has trouble in the Middle East, let it try dealing with the Azerbaijanis, Uzbeks, Kirghizians, Tadzhiks all as separate and independent states, said Dr. Hodge. Try getting a nuclear arms agreement, or a trade agreement, or a transfer of technology

agreement with each, said Dr. Hodge

Secondly, said Dr. Hodge, the Black American Constitutional Symposium (BACS) would and will be the most genuine indication to the West, that the Soviets are not just talking glasnost and perestroika but that their simultaneous implementory deeds, in fostering civil liberties could promote investor confidence and massive western aid and technology transfers.

Dr. Hodge feels all those things can and will most surely happen. Those predictions are "unfathomable to this 'Northern Liberal' white racist power structure, so they label me as crazy." But even the New York State sponsored psychologist said that I'm not crazy, just superior, said Dr. Hodge.

New York State appointed psychologist, Dr. Robert H. Goldstein, Ph.D., in his report did indeed say of Dr. Hodge that, "There were, however, no clear signs of psychotic distortion, breakdown in logic, or the utilization of paranoid projective modes of thinking."

Although justice has not been had as yet in our country, "it most certainly will be had in Moscow," Dr. Hodge said. So, Dr. Hodge said, he is now going through the New York State Court system as a final dress rehearsal for Red Square.

If justice is indeed had in the New York State Court system, said Dr. Hodge, (something that may be only a dream, he said, since Governor Cuomo appointed most of the Court of Appeals Judges) then the Black American Constitutional Symposium (BACS), will append to its message, the finding that justice for Blacks in America is not totally, totally impossible, only almost, totally, totally impossible, said Dr. Hodge.

Comment:

Dr. Hodge's scrutiny over-exposes his subjects, making them naked in their own eyes, much to their dislike and discomfort. He gives them their just due, not in abstractive, over-idealized prototypes but in utilitarian, pragmatic terms. Racism hiding in "Northern Liberal" New York he advances, is reprehensible racism, and it must be exposed. Mediocrity in any activity, occurring anywhere in our societal matrix, he

similarly feels, must be undraped, disclosed and denounced.

Dr. Hodge does not "devalue" human beings, he merely thinks that law violators of "white collar or blue collar" deserve to be punished by society for infractions which they commit against innocent citizens. Violators of the law should be subject to a public pillory.

There is no basis whatsoever for support of this element that Dr. Hodge has difficulty seeing others in a "realistic light," tending either to "over-idealize" or "devalue" them. The facts point instead to an eclectic, dauntless intellectual, who is so realistic in his assessments of mankind that it is irritatingly authentic, vivid, lifelike, graphic and visionary.

Conclusion:

A personality disorder is said to exist when a person chronically uses certain "mechanisms of coping" in an "inappropriate," "stereotyped" and "maladaptive" fashion.

Dr. Daniel Hodge's "mechanisms of coping" with what can be perceived to be racial injustice by even the most casual observer, has been to "appropriately," commence lawful actions for redress of his grievances. Dr. Hodge has been innovative (not "stereotyped") in his emotional approach to and legal strategy against what he perceives to be a well-entrenched, corrupt State and Federal bureaucracy. Dr. Hodge has adapted to the exigencies of his plight in a most remarkable way. His mood and affect are fortified by his most unusual and remarkable personal strength. Dr. Daniel Hodge has no personality disorder as is categorized in the DSM - III - R.

Absolutely none of the seven enumerated elements in the model of the personality disorder of a narcissistic type as it relates to Daniel R. Hodge have any tenable application. The diagnosis given to Dr. Hodge by the New York State sponsored Bartlett/Goldstein team is totally groundless.

Diagnosis:

A healthy, well-adjusted, innovative, dauntless Black man, with a Superior range of intelligence.

Review Of The Perceived Need For The New York Education Commissioner's Ordered Psychiatric Evaluations And Counselling Programs

It is the opinion of this evaluator that the New York State Education Commissioner's Order as it regards patient P and R, and as it pertains to the perceived need for psychiatric evaluations and counselling programs, for Dr. Daniel R. Hodge, is substantially and totally without merit.

The proposed remedial counselling program of the Order requiring Dr. Hodge to undergo repeated psychiatric examinations and continual psychiatric counselling, even if he passes the psychiatric examinations, for the full period prescribed, and as a condition of probation, during a 33-month stay of execution, of a suspension of his license to practice medicine, is entirely punitive and completely insupportable under any proffered grounds.

The Alleged Medical Basis For The Psychiatric Part of the Order

There is no medical basis for the Order:

The treatment of Patients P and R were wholly appropriate with no medications, and most obviously in Patient P's case, where the blood gas showed: pH 7.434, pO_2 101.9, pCO_2 24.5, HCO_3 16.5, and where treatment in the manner in which the nurse commanded, is inexcusable malpractice. This evaluator is and has been a primary care Emergency Room Physician and Associate Director of the Kings County Hospital Emergency Room since 1979. Patient P is undeniably and most emphatically a classical prototype of self-induced hysterical hyperventilation.

The Alleged Legal Basis For The Psychiatric Part of the Order

There is no legal basis for the Order:

First, because it is very difficult from the angle of a value judgment reinforced, unconstitutionally vague, fact situation in an Emergency Room setting, to distill the essence of "willfully harassing, abusing or intimidating a patient either physically or

verbally," as defined by 8 NYCRR 29.2(a)(2)

No member of the New York State Board of Regents can attempt to substitute his or her judgment for that of the physician on the scene, particularly in an Emergency Room. An Emergency Room requires police and security as the next most essential element for proper and orderly health care delivery. Emergency Room care is not by appointment nor is it centered in the elegance and quiet settings of office practices.

Few patient P's ever show up with no appointment, hyperventilating and demanding to be treated at elegant and quiet settings of office practices. She would be subject to arrest for disorderly conduct or most surely police assistance would be sought by the practitioner. And few office nurses would take it upon themselves to yell to an office practitioner to treat, with this or that medication: That nurse would have no job in an instant. The conduct of the actors in Emergency Rooms and private office practice settings are quite different for a good reason: the presentations, attitudes and expectations of prospective patients are widely separated, as must be the corresponding judgments made of professional conduct and performances in both settings.

In the case of Patient P, the giving of a firm, reasonable command, appropriately measured in character and degree to the facts and circumstances attendant to Patient P's hysterical presentation, was fitting. It could be housed quite comfortably in the wide range of professional attitudes, duties and conduct common to, and expected of Emergency Room physicians, effectively performing their day to day activities, and in the situation with Dr. Hodge, his conduct was entirely proper and suitable.

Secondly, the testimony of the nurse, is wholly unreliable, ulteriorly motivated and highly prejudicial since the nurse was upset at the physician because the physician refused to follow the nurse's commands to treat Patient P in a manner that would be inexcusable malpractice.

Daily friction between health professionals is obviously no different than in any other segment of the nation's work force. In the case of Patient P, the physician was medically

correct and the nurse was absolutely wrong. And therefore, the nurse had well-defined, ulterior motives to lash back at the physician, with invective embellishment of the accounts of the events, and with rancor, animosity, resentment and bitterness, before the Hearing Committee.

Thirdly, there is no legitimate New York State interest or objective being furthered by extending the State's jurisdiction into matters clearly in the domain of personal style, affect, mannerisms and speech which per se, without more, can never be the basis of professional or any other regulatory violations.

Manipulating professional or other regulations contrary to their basic purposes, whether in the name of conscience, under the guise of reform, or in promoting the values of a dominant culture, are grossly unfair to people of various cultures, and such governmental interference is very susceptible to a high degree of prejudice and unconstitutional vagueness.

But more importantly, the State of New York instead, has a broad interest in stimulating progress in a search for public good and that translates into a reserving for the physician (or lawyer) a very high degree of professional independence, not only from government interference, but just as importantly, from a patient's selfish interests, as classically demonstrated by Patients P and R. A physician must be able, without unjustifiable threat of reprisal, to say "no" to a Patient P or a Patient R, when in his clinical judgment saying "no" is medically and socially appropriate.

Moreover, the only physician on the New York State Board of Regents, who could arguably, more cogently envision, and more properly evaluate appropriate physician conduct, in a private office practice, clinical or Emergency Room setting, casted a dissenting vote. That creates a considerable degree of doubt in the mind of a Court or other reviewer, that there is, at the very least, some significant aberration in, and substantive medical support of, and for the Board's vote.

Also finally, in the case of patient P, but equally applicable to all the cases in these charges, the physician, like any health care professional or worker, has a duty to speak out

against unscientific, ulteriorly motivated encroachments by the State, or the Health Care Facility, or even the patient, on the delivery of appropriate and soundly based health care. No muzzle can be put on such physician activities and validly based protestations, under the guise of public relations or ulteriorly under the cloak of New York State professional conduct and regulatory schemes.

In the case of Patient R, the same four principles discussed with regard to Patient P apply. Patient R became irritated and inflamed at being denied her wish to get Tylenol with codeine, a very commonly abused narcotic analgesic, often demanded at the emergency care level. Patient R, like the nurse in the Patient P case, vented her anger not only at the scene, in the Emergency Room, but long there after by her spiteful, vindictive testimony.

Private practitioners have been very lax in prescribing narcotics and antianxiety medications. New York State now requires triplicates for benzodiazepines, but it is hardly attributable to the Emergency Room physician's propensity to dole them out. The impetus came most likely from the observed prescribing habits of private practitioners. It is commendable to see any physician willing to draw strict lines with regard to the prescribing of antianxiety medications and narcotics.

For all those reasons the Order of the New York State Education Commissioner which perceived a need for, and prescribes Psychiatric Evaluations and Counselling Programs for Daniel R. Hodge, M.D., allegedly "because of our concern as to respondent's behavior toward patients P and R," is totally without foundation of any kind and totally lacks substantive merit.

The Professional Misconduct, Medical Negligence, Incompetence and other Charges

A thorough review was made by this evaluator of each and every substantive charge, and the facts presented by the New York State Department of Health, Board of Professional Conduct, in support of those charges. After review of the

medical literature, including textbooks, journals and legal precedents, it is the opinion of this evaluator, that none of the charges of which Daniel R. Hodge was found guilty, in the Order of New York State Education Commissioner, have any merit whatsoever.

Moreover there is documentary and circumstantial evidence,

- (1) that several charges have inherent legal deficits because the State allegation was improperly worded or alleged guilt by implication,
- (2) that elements of several charges were improperly defined or taken out of usual context as it regards formal and informal clinical and emergency room routines,
- (3) that charts were apparently altered or tampered with in such a way as to make them fraudulent,
- (4) that the Hearing Committee used not a single text book or journal in support of its conclusion of guilt with regard to either negligence or incompetency,
- (5) that neither the New York State Health Department Commissioner nor the New York State Education Department Commissioner used a single text book or journal in support of their conclusion of guilt with regard to either negligence or incompetency, summarily adopted the Hearing Committee Report except as regard to one aspect of the Patient A and B charge,
- (6) that neither the New York State Health Department Commissioner nor the New York State Education Department Commissioner made note of any of these rather substantial deficits, except in the sole case that the Regents Review Committee Chairman dismissed, that of "abandonment of professional employment" as opposed to being late. That finding is particularly platitudinous, when an employment contract specified that, "No employee in this unit

shall be required to punch a time clock or record attendance with a timekeeper."

Specific Cases

In the case of Patients A and B, omitting the redaction of the patients' names in a Court document was at best a harmless error in those two cases. The Court would simply instruct either party to correct the problem as it relates to patient confidentiality, particularly since only the parties were privy to that particular patient information by reason of the parties' previous association as Health Care provider and Independent Contractor.

The clearest example of the triviality of the charge is the fact that the Hearing Committee also committed a similar clerical error, which most certainly wouldn't warrant the suspension of their licenses to practice for 36 months, as is the penalty being now imposed on Daniel Hodge by the present New York State Education Commissioner's Order on that charge alone.

In the case of Patient C, the New York State Department of Correctional Services had an employer's duty to implement a rigorous training program for all prison personnel, corrections officers, and health care personnel, in how to avoid unnecessary exposure, in keeping with the CDC guidelines for AIDS infection control. All body fluids must be considered as hazardous during uncontrolled, emergency circumstances and universal precautions apply; so, that personal protective equipment, such as gloves, masks, goggles and gowns must be made available to employees and must be worn. The medical staff at Attica Correctional Facility had never had any effective training or experience in rescue procedures and had no practice sessions in the use of personal protective equipment.

The New York State Department of Correctional Services had no a defibrillator, the only definitive treatment for Patient C, who was documented to be in fibrillation at the time Patient C was brought to the emergency room, at about 2:00 PM on March 2, 1987. The rescue team was neither properly trained,

equipped nor protected (in not even as much as wearing gloves) to carry out a safe and effective rescue operation. In a prison environment, where the incidence of AIDS is greater than 400 per 100,000, universal precautions were imperative.

The physician had instantly recognized that Patient C was fibrillating or in ventricular tachycardia and demanded a defibrillator. None was available. The physician, who then put on gloves, attempted to intubate. No stylet was available. The physician noticed that a nurse with un-gloved hands was not getting a proper seal while attempting to use what appeared to be a defective ambu bag.

In the physician's judgment, based on his observations of the team, it seemed unreasonable to further enlist that untrained, clearly inexperienced team to perform an effective, and even unsafe rescue effort. The physician was left with no alternative but to give an abort command. Under those facts and circumstances his decision, was not only appropriate, but necessary to limit the tragedy of unnecessary exposure to possible AIDS infection.

In the case of Patient F, the charge of negligence is totally groundless. Patient F was a 23 year old white female who was seen at 1:40 AM complaining of right wrist pain after a fall. Dr. Hodge felt the trauma to be minor, probably involving only soft tissues. Moreover, at that hour in the morning, calling an X-ray technician, seemed to be unreasonable, particularly when the likelihood of finding a fracture was small. Dr. Hodge treated the patient with an ace bandage, a non-steroidal anti-inflammatory drug and follow up with her private physician.

Emergency Department Policies and Procedures with regard to radiological interpretations of X-rays usually insist that Emergency Room physicians should explain to the patient that the interpretation of the X-ray is preliminary; official reading by a radiologist may not be immediately available. The Emergency Room physician must provide a written preliminary diagnosis for the radiologist and on the patient's chart. Consultative report of radiographic procedures after preliminary clinical interpretation by the Emergency Room physician may alter the course of treatment or cause a new or different treatment plan.

Even if Dr. Hodge had called the technician to take the film and even if Dr. Hodge preliminarily saw no fracture, it would still not be negligence or incompetence on his part because official interpretation of X-rays (radiograph) can only be made by a radiologist. It is not the professional responsibility of Emergency Room physicians to interpret X-rays (radiograph). In the case of Patient F, a later film was interpreted by the radiologist as having an un-displaced fracture. The preliminary treatment and the treatment after official radiological interpretation was identical, perhaps except for adding a splint. The charge of negligence is totally groundless.

In the case of Patient G, is a similar X-ray situation where Dr. Hodge felt that the likelihood of a rib fracture was small, but of course, always there is some likelihood. Patient G had fallen from a 4 foot step ladder while painting in her house and hurt her right chest area. She was treated by Dr. Hodge with ice packs and a non-steroidal anti-inflammatory drug and follow up with her private physician, who ordered a chest X-ray.

The private physician, didn't read the X-ray, but waited for an official radiologic interpretation, then put on a rib belt, on Patient G, which was even at that time no longer recommended, for even a displaced rib fracture. Official radiologic interpretation, showed several minor, un-displaced rib fractures. Neither physician was negligent in either diagnosis or treatment of this minor trauma situation, because neither physician is a radiologist. Legally a physician who has no professional duty to interpret X-rays cannot by definition be found to be negligent in X-ray interpretation.

In the case of Patient H, who was an arthritic patient who had fallen a week before and had complained of mild back pain, which was very little more intense than her usual arthritic pains. Dr. Hodge did not feel that X-rays were needed. In fact none were ever taken by any physician related to this incident. Yet the charge is that Dr. Hodge "should have" and the Hearing Committee which, of course, did not personally see the patient found guilt.

Actually the more likely explanation for the charge being lodged in the first place, (which is wholly similar to the redact

charge in the case of patient A and B) is that Dr. Hodge had prescribed an antibiotic for the patient, probably he said, at the very last minute when the patient was leaving. Dr. Hodge said, that he wrote the antibiotic down on the chart but because it was probably a last minute request, he didn't make a full note of it in the part of the chart usually reserved for such notations. An emergency room physician's chart may have a conglomerate history, physical examination, diagnosis and treatment as one word: right scleral hemorrhage. In that case it is a complete legally acceptable chart.

During his avid assistance of the New York State regulators, the chart review by Dr. Lynn Feldman, D.O., (whom Dr. Hodge had sued for racial discrimination at Lake Shore Hospital) the Patient H chart, was probably picked out because the antibiotic notation in the physician's plan of treatment, had no supporting reason written in the section reserved for history and physical examination. The actual Patient H treatment probably had nothing to do with the bringing of the charge. Now two charges could be lodged:

(1) no history of a reason for the antibiotic treatment in the section reserved for history, yet in the section reserved for the physicians plan an antibiotic was prescribed.

(2) an arthritic patient with a history of a fall for which no X-ray was ordered.

In the case of Patient I, she was treated for a sore throat by two white physicians with two separate antibiotics:

(1) Amoxicillin which caused a morbilliform rash, which is not related to immunoglobulin E and is therefore not linked to anaphylaxis, and

(2) erythromycin which was ineffective and the sore throat become worse, so that Patient I couldn't even swallow her saliva.

Patient I was treated by Dr. Hodge with Claforan, a third generation cephalosporin, similar to penicillin but it, unlike penicillin, has very rarely caused anaphylaxis (immunoglobulin E). Studies have shown that Claforan does not induce production of immunoglobulin E, the causative factor in anaphylaxis. In any event Patient I was better in 3-4 days, yet

complained she was treated rudely by Dr. Hodge.

The Hearing Committee dismissed the "rude" "willfully harassing, abusing or intimidating a patient either physically or verbally," charge and kept the negligence charge, because they reasoned that, Patient I could possible have had a reaction to the Claforan. The charge is absolutely groundless. It also demonstrates the gross lack of substantive knowledge of immunology on the part of the Hearing Committee.

In the case of Patient J, the charge is that treatment of Patient J for an upper respiratory tract infection, with two antibiotics, Ampicillin and Erythromycin, simultaneously, lacks sound a medical basis. The charge is so far out of tune with the reality of modern medicine, it is almost too ludicrous to address. There are several fixed dose, dual antibiotic, commercially prepared formulations, such as Pediazole [Erythromycin and Sulfisoxazole], Bactrim [Sulfamethoxazole and Trimethoprim], Augmentin [Amoxicillin and Clavulanic acid]

The causative organisms in an Upper Respiratory Tract Infection are numerous and include chlamydia, mycoplasma, aerobes and anaerobes. Co-infection with multiple organisms is common. A presumptive infection for example with mycoplasma and an oral strain of bacteroides could quite rationally be treated with Bactrim or the combination of Ampicillin and Erythromycin. That therapy for such a presumptive Upper Respiratory Tract Infection is quite medically sound and the charge is thus untenably baseless.

In the Patient L case, the presentation of the patient at both hospitals was virtually equivalent as both Emergency Room physicians' chart show. Patient L, falls into that class of 30-50% of asthmatics, who experience a leukotrine mediated second wave of bronchospasms some 6-10 hours later, after their first onset of asthma. Since response to treatment is the foundation upon which further testing is done, X-rays, Arterial Blood Gas, and Vital Capacity were not indicated in Patient L's first Emergency Room visit, at Lake Shore hospital.

Patient L, was appropriately handled, with only oral instead of intravenous medications, at the time (11:00 AM) and for the manner in which she presented, at Lake Shore hospital,

with merely mild wheezing. Patient L told the nurse at WCA hospital that her new attack of asthma started again at 4:00 PM. Patient L's temperature which was 102.3 at Lake Shore hospital had dropped to 100 at 11:00 PM when she showed up at WCA hospital. Both Emergency Room physicians had a presumptive diagnosis of asthma, bronchitis, and neither physician felt that there was a need for an Arterial Blood Gas or Vital Capacity, as the charge alleges against Dr. Hodge. The charge has no medical or legal foundation, is totally unsubstantiable and unproven.

Although never formally charging incompetency or negligence with regard to having missed a diagnosis of bronchopneumonia, there is reason to believe that such is the implication. The facts are, however, that bronchopneumonia, a bacterial infection of the lung, was never proven, and was merely one of three presumptive diagnoses, with atelectasis and septic emboli, being the other two, according to the opinions of two separate radiologists, Doctors Panaro and Foley. A sputum culture taken one hour after admission at the WCA hospital was negative for bacteria and showed some polymorphonuclear leukocytes, (a class of white blood cells) which is a common finding in the sputum of asthmatics during attacks, whether or not infection is present and proven.

With regard to the matter of the missing Patient L, Emergency Room chart, it appears that the chart was removed to help support the negligence and incompetence charge. The likelihood of only that particular, most essential page being missing purely by chance is remote. Such removal of a part of a medical record, where it clear there was an attempt to defraud the record, for whatever reason, whether to nullify a malpractice action, or to support a regulatory violation, is a criminal offense.

The State regulator was himself placed on the witness stand during the proceeding, to be examined with regard to his involvement in a possible criminal infraction, probably committed, in concert with hospital personnel. Yet that fact was not mentioned in either the Hearing Committee Report or the Regents Review Committee Report, which further raises some

rather serious questions about the proceedings, at all levels and the active or passive participation by reviewers in such a grave matter.

In the case of Patient M, this is also a chart notation situation, coupled with a nurse's testimony, that she did not see Dr. Hodge look with an otoscope, into the ear of an infant. The charge alleges that because Dr. Hodge wrote HEENT - unremarkable on the patient's chart, that Dr. Hodge thereby practiced medicine fraudulently, and "failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient." The "evaluation and treatment" was for a febrile seizure, where the temperature was reduced from 103.6 to 99.6 in approximately 20 minutes. Since the presenting problem "febrile seizure" (not otitis) was appropriately "evaluated and treated" the charge of negligence in that regard is totally absurd and has no foundation whatsoever.

The "evaluation and treatment" was not for otitis media but for febrile convulsion where the source of infection was presumptively determined to be the bronchioles of the lung, as the chart reveals. The nurse must have, at some point, left the room to get medications that were prescribed by Dr. Hodge, and purely from a legal point, that nurse can't state that Dr. Hodge did not look into the infants ears with an otoscope, during brief periods of her absence. But aside from that mortal legal infirmity, there is the other matter of conventional notations in medical charts as is loosely done by physicians.

The notation made under the headings labelled as HEENT, THORAX (chest, heart, lungs) ABDOMEN, and EXTREMITIES, in the section of the physical examination report of a medical chart, which is reserved for information regarding those sets of grouped organ systems, is at best a graphic label. The physician conventionally, can and usually does record his general or specific impressions of the anatomical structures or systems grouped together and labelled in each heading. It in no way specifies what instrument the physician used or that every part of every system has been inspected. But by implication if, in the area labelled as HEENT by convention, there is a description of the eardrum or the nasal

septum or concha [turbinates], then it is obvious that these anatomically concealed structures necessarily required the aid of an otoscope to inspect them.

Routinely physicians write HEENT - unremarkable upon just visual inspection, unaided by any instrument whatsoever, for the simple reason that there is more to an eye than just a fundus, and there is more to a nose than just turbinates, and there is more to an ear than just the drum. Where should all those other portions of these anatomical structures be placed in the conventional scheme of things if not under the same graphic label of HEENT? The obvious legal fallacy of the charge against Dr. Hodge is that it presumes that if Dr. Hodge wrote HEENT, then he must have had to inspect each of those grouped anatomical structures, including those portions that can only be visualized with an otoscope. The charge "forgets" that there are "other portions of those anatomical structures," visible with the naked eye, which are also placed under that same label of HEENT.

As an illustration, for example, there is no presumption that an instrument of any kind has been used in making the following clinical evaluative descriptions of the eye: icteric sclera, extra-ocular movements full, ptosis, unequal sized pupils, lid lag, lid retraction, widened palpebral fissures, proptosis, chemosis, conjunctivitis, pre-orbital edema, corneal ulceration, corneal hemorrhage, Kayser-Fleischer's ring in Wilson's disease, band keratopathy, dislocated lens in Marfan's disease, etc.

On the other hand, the physician's description of his specific findings when his notation expressly so states, in the grouped anatomical structures HEENT, carries an assumption *proprio vigore* that a fundoscope had to have been used, as follows: central retinal artery or vein occlusion, papilledema, angioid streaks, drusen of the optic nerve head, anterior ischemic optic neuropathy, optic atrophy, retinitis pigmentosa, glaucomatous optic disk, diabetic retinopathy with microaneurysms, proliferative diabetic retinopathy, etc.

In some instances, on the emergency room chart, no graphic label or set of grouped anatomical structures or organ

systems are used, nor considered absolutely essential for good record keeping, because the history, findings, diagnosis and treatment are, and can be, quite satisfactorily noted as only a single word: corneal hemorrhage: Patient awoke with, corneal hemorrhage, otherwise unremarkable. No treatment is necessary, no instrument was used and thus the record most surely, "accurately reflects the evaluation and treatment of the patient," whether a nurse said the physician didn't use an flash light or an otoscope or a fundoscope. For all those reasons the charge against Dr. Hodge regarding Patient M has no medical or legal foundation and is totally meritless.

In the case of Patient N, the charge is that Dr. Hodge failed to diagnose a first onset episode of diabetic ketoacidosis, in a drug addict with an abscess and bronchitis, some 24 hours after Dr. Hodge had seen Patient N in the Emergency Room. The Hearing Committee considered not getting an inexpensive urine test as supportable proof of negligence, when pancreatic decompensation can occur in only one hour, let alone 24 hours and a urine would have been negative. The New York State medical expert witness stated that Patient N's presentations on both occasions were, and could be medically explained as, two separate and distinct Emergency Room visits. The charge is totally groundless and insupportable under any medical or legal rationale.

Conclusion

It clear from all the foregoing that since no legitimate reasons whatsoever have nor can be advanced in support of the New York State Education Commissioner's Order, or in fact, in support of the whole proceeding against Dr. Hodge, that the charges must dismissed as a matter of law and that Dr. Hodge's prosecution was carried out for some other purpose.

The New York State Education Commissioner's Order, since it totally lacks substantive support, cannot survive an action brought against the New York State Education Commissioner and New York State Board of Regents for review of an administrative proceeding, pursuant to Article 78 of the Civil Practice Law and Rules, brought before the Appellate

Division, Third Judicial Department.

There is substantive merit to Daniel Hodge's plan to commence an action against multiple defendants for damages, back pay, loss of income and defamation (having various distinguished co-plaintiffs, which is being done clearly for the publicity it is likely to generate). Since the action includes several Federal Judges as defendants, he plans to bring it in New York State Supreme Court, in the County of Erie. The substance of the complaint goes directly to the heart of the issue of his contention that there was and is an ongoing, widespread conspiratorial, racially motivated, denial of his civil rights and malicious prosecution of him, as any reasonable jury could conclude.

Kildare Clarke, M.D., J.D

**The Fort McHenry Blues:
So Much Trouble in the Land of the Free**

by
Daniel R. Hodge, M.D., J.D.

One of our favorite songs starts with,
 "Oh SAY can you SEE,"
 at the beginning of the **game**
 and the last thing in the **night**.
For more than 300 years, the **race game's the same**,
 even by dawn's early light, still a **perilous fight**.
 Oh, there's so much trouble in the
 Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

 If what we **SAY** is what we **SEE**,
 then what we **SEE** would be what we **SAY**.
 We **SAY**, "Life, **LIBERTY**, Property.
 We, **SEE**, a nation, living fear,
 everywhere, from sea to shining sea.
 Oh, there's so much trouble in the
 Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

 The Second Amendment of our **Constitution**,
 says the right to keep-n'-bear arms is the **solution**.
 Seems everybody's got a gun, yet **no one is Free**.
On streets, with fluttering heartbeats, walking down the lane,
 even your **"very own shadow,"** can drive you insane.
 Oh, there's so much trouble in the
 Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

 We're in the last decade of this **Century**.
 "Hugs not Drugs" is what we **SAY**.
But Tobacco, Thugs, Booze-n'-Drugs, is what we **SEE**.
 55 million pairs-a-lungs, pretentiously exercising
 the **"pleasures"** of an **"adult choice,"** is what we **SAY**.
 But pain, suffering, cancers, disabling disease and
 money-hungry, murderous mediocrity is what we **SEE**.
 Oh, there's so much trouble in the
 Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

A meaningful life requires a functional brain.
 But when that monitor shows no more cerebral waves,
Goodbye and forever farewell loved one,
 is what we must **learn to SAY**.
 Or Hello endless grief & torture, for a glorified pump and
 forced-fed, mechanical Slave, is what we **return to SEE**.
 "Thanks, but no thanks," is what the spirit of a
 loved-one's rational mind, would be **designed to SAY**.
 And a bold-n'-dazzling sign of, "Let it be, let it be,"
 is what we should be **resigned to SEE**.
 Oh, there's so much trouble in the
Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

~~We~~ the ~~People~~, engage in Sexual Conduct
 for Pro-choice **recreation** or Pro-life **procreation**.
 But preventing procreation by whatever **invention**,
 be it contraception, abortion or **abstention**,
 are products of the very same **homicidal intention**.
 Predatory birds-of-a-feather, all flocking together,
 is what **I SAY**.
 But contention, collision and pyrrhic derision,
 is what we **SEE**.
 Oh, there's so much trouble in the
Land of the Free,
 'cause what we **SAY**, ain't what we **SEE**.

A Black man struggles to the summit of
Educational Expanses,
 Doctor, Lawyer, all that he can be.
 He's tortured, defamed and punished under
fabricated charges and **pretended offenses**.
 But analyze those cruel distortions
 for true meaning and **scientific validity**.
 Only ulterior motives emerge, 'cause that Black man
 undermines that **COW-DUNG DOCTRINE** of white supremacy.

Oh, there's so much trouble in the
Land of the Free,
 'cause what we **SAY**, ain't what we **SEE!!**

RP 68

**HARVARD MEDICAL SCHOOL
DEPARTMENT OF PSYCHIATRY**

ALVIN F. POUSSAINT, M.D.
ASSOCIATE PROFESSOR OF PSYCHIATRY
ASSOCIATE DEAN OF STUDENT AFFAIRS

SENIOR ASSOCIATE IN PSYCHIATRY
JUDGE BAKER CHILDREN'S CENTER AND
THE CHILDREN'S HOSPITAL

Reply to:

JUDGE BAKER CHILDREN'S CENTER
295 Longwood Avenue
Boston Massachusetts 02115
(617) 232-8390 x2303

September 5, 1990

Daniel R. Hodge, M.D., J.D.
64 Marine Drive
Amherst, New York 14228

Dear Dr. Hodge:

I am in receipt of your letter and other materials, as well as having heard of your conversations with my assistant. I understand that you are requesting a letter from me saying that you are not suffering from a psychiatric disorder but only fighting racism, in the hope that such a letter would relieve you of the need to receive court ordered counseling.

This letter is to reiterate that I will not be able to assist you in this case. I cannot, in good clinical conscience, write such a letter unless I have personally evaluated you, which I am not in a position to do. Furthermore, I do not become involved in cases of litigation as a matter of policy.

As I am not able to assist you, I am returning your materials to you for your own future use.

Sincerely,

Alvin F. Poussaint, M.D.

AFB:bbs
Enclosure

State Of New York: Supreme Court
Appellate Division : Third Department

Daniel R. Hodge, M.D., J.D.,

Petitioner,

ORDER

V-E-R-S-U-S

Index No. 61591

New York State Department Of Education, New York State Board Of Regents, Thomas Sobol, Emlyn I. Griffith, Henry A. Fernandez, Jane M. Bolin, Patrick J. Picariello, Martin C. Barell, Carlos R. Carballada, Willard A. Genrich, Jorge L. Batista, Laura Bradley Chodos, Louise P. Matteoni, J. Edward Meyer, Floyd S. Linton, Mimi Levin Lieber, Shirley C. Brown, Norma Gluck, James W. McCabe Sr., Adelaide L. Sanford, Walter Cooper, Charles J. Adams, Daniel W. Szetela, Ann R. Eldridge, Christopher Lefkarites, Esq., Andrew A. Tolkof, Esq., Howard J. Goodman, Esq., Diane G. Maupin Esq., Lance R. Plunkett, Esq.,

Respondents.

Petitioner having made an Application to this Court for an Order To Implement The "Psych" Order, of the New York State Commissioner of Education, Calendar No. 10444, Which Was Not Stayed By This Court, and because Petitioner, a law abiding citizen, of the Black race, was unable to execute that "Psych" Order, being rejected by more than a dozen Board Certified psychiatrists, and the Court having considered the matter in due deliberation and therefore wanting to see its Orders enforced, now it is

ORDERED that any and all Board Certified psychiatrists licensed to practice psychiatry in any State of the United States of America must perform recurrent "psych" tests and carry out perennial "psych" COUNSELLING PROGRAMS, on the Petitioner Daniel R. Hodge, forthwith as per the Order of the New York State Commissioner of Education, Calendar No. 10444, and it is

further

ORDERED that the State of New York provide in forma pauperis assistance to the Petitioner to enable the performance on the Petitioner of recurrent **"psych" tests** and carry out perennial **"psych" COUNSELLING PROGRAMS**, on the Petitioner **Daniel R. Hodge** forthwith as per the Order of the **New York State Commissioner of Education**, Calendar No. 10444,

So Ordered

Hon. A. Franklin Mahoney, Presiding Justice

Hon. T. Paul Kane, Associate Justice

Hon. John T. Casey Associate Justice

Hon. Thomas E. Mercure Associate Justice

Hon. Norman L. Harvey Associate Justice

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Daniel R. Hodge, M.D., J.D.
64 Marine Drive
Amherst, New York 14228
(716) 691-3300

September 11, 1990

Robert H. Goldstein, Ph.D.
University of Rochester Medical Center,
School of Medicine,
300 Crittenden Boulevard
Rochester, N.Y. 14642

Dear Dr. Goldstein:

Enclosed are three documents:

1. The Report of James W. Bartlett, M.D., Professor of Psychiatry, University of Rochester Medical Center, School of Medicine, Independent Psychiatric Examination of Daniel R. Hodge, M.D. pursuant to the July 18, 1988, Order of the Hearing Committee of the State Board for Professional Medical Conduct, New York State Department of Health,
Attachment:
The Psychological Evaluation of Daniel R. Hodge on August 20, 1988, by Robert H. Goldstein, Ph.D., Clinical Psychology;
2. The Psychiatric Report and Medico-Legal Opinion of Kildare I. Clarke, M.D., J.D., rendered July 16, 1990;
3. The Order of the New York State Department of Education Commissioner, Calendar No. 10444, in the Matter of Daniel R Hodge;

It is obvious that neither Dr. Bartlett's nor your report nor that of Dr. Clarke recommend that Dr. Hodge should have recurrent **"psych"** examinations nor perennial **"psych"** Counselling.

The matter is now being reviewed in the **Appellate Division, Third Department**, in an Article 78 proceeding.

However, there seems to be a **lack of substantial evidence** to support a finding of a personality disorder, **"most likely of a Narcissistic type,"** as your report found. The elements of that Narcissistic Model are enumerated below. Please fill in what you consider to be factual support in your report, for each of those elements as they pertain to your report and return it to me immediately since it must be in the probation unit of the New York State Department of Health by the 17th of September, 1990. Thank you.

- (1) has an inflated sense of self-importance,
- (2) and may be preoccupied with being (a) unique, (b) powerful and (c) gifted.
- (3) exaggerates his or her (a) talents and (b) contributions,
- (4) seeks admiration
- (5) and uses others to achieve a better position, while being indifferent to their (a) feelings and (b) needs.
- (6) A rejection can produce (a) excessive rage, (b) inferiority, (c) shame or (d) humiliation.
- (7) has difficulty seeing others in a realistic light, tending either to (a) over-idealize or (b) devalue them.

RP 73

THE UNIVERSITY OF ROCHESTER 300 CRITTENDEN BOULEVARD
MEDICAL CENTER ROCHESTER, NEW YORK 14642
AREA CODE 716

SCHOOL OF MEDICINE AND DENTISTRY
SCHOOL OF NURSING
STRONG MEMORIAL HOSPITAL

DEPARTMENT OF PSYCHIATRY
DIVISION OF PSYCHOLOGY

September 14, 1990

Daniel R. Hodge, M.D., J.D.
64 Marine Drive
Amherst, New York 14228

Dear Dr. Hodge:

I have received the packet of material you recently sent me, including your cover letter, together with copies of the reports submitted by Drs. Bartlett and myself, the report by Dr. Clarke and the order signed by Commissioner Sobol.

I believe that the report I submitted to Dr. Bartlett on the examination conducted on 8/20/88 is an adequate and sufficient reflection of my opinion with regard to the question raised at the time that my consultation was requested. Your request for further information regarding my opinion appears to be in the context of an adversarial proceeding and I do not believe that it is appropriate for me to participate in this matter beyond the rendering of my initial opinion.

Sincerely,

Robert H. Goldstein, Ph.D.
Associate Professor and Head
Division of Psychology
Department of Psychiatry

RHG/pmf

RP 74

George S. Parlato, M.D.

Diplomate in Psychiatry

American Board of Psychiatry and Neurology

5811 S. Park Avenue
Hamburg, New York 14075-3791

By Appointment
Telephone: (716) 648-1222

September 17, 1990

Probation Unit
Office of Professional Medical Conduct
NYS Dept. of Health
Corning Tower Building
Room 438
Empire State Plaza
Albany, NY 12237-0614

Attn: Laura E. Leds

RE: Daniel Hodge, M.D.
64 Marine Drive
Amherst, NY 14228

Dear Ms. Leds:

On September 13, 1990 I psychiatrically interviewed and examined Dr. Daniel Robert Hodge of 64 Marine Drive, Amherst, New York 14228, in my office. I reviewed the July 16, 1990 psychiatric report submitted by Kildare Clarke, M.D., of White Plains, New York, and also reviewed the psychiatric report of James W. Bartlett, M.D., psychiatrist and the psychological report of Robert H. Goldstein, Ph.D., both of Rochester, New York. I have also enclosed a curriculum vitae.

Results of my examination revealed: Daniel Hodge does not suffer from any identifiable mental or emotional disorder nor is he handicapped by any clearly defined personality disorder. I base my opinion on the following:

Daniel Hodge, a 46 year old black separated physician, provided me with the information about the charges which have

been placed against him, charges which he sees as being nothing more than politically motivated because he is a "dissident". He refers to several cases where his medical judgment was questioned by members of the nursing staff at one hospital, namely Buffalo Columbus Hospital, where he was taking care of patient "P", because she was not asthmatic whereas the nurse disagreed with him and apparently wrote up a report that he failed to treat her as an asthmatic. He goes into great detail, explaining that laboratory data supported his diagnostic impression and therapeutic plan.

On another occasion he states that he, while working at the Attica Prison, in March 1987, did not have the proper equipment to support the life systems of an inmate, who thereupon died. He informs me that he has been the agent and the victim of intense litigation involving him and the State of New York and the Governor, down to members of the Department of Health.

Daniel Hodge graduated from Downstate Medical College in 1976. He came to Western New York in 1983 where he worked at the Attica Prison and held other positions as emergency room physician in Buffalo hospitals, including Buffalo Columbus Hospital. He decided to go to law school at the University of Buffalo in 1985 and he states that members of the white power structure were threatened by this an "jealous" and for that reason switched his schedule making it difficult for him to work at Attica and to attend classes. He finished his required courses in the summer of 1988 but did not receive a law degree which was refused by the law school. In the interim he was suspended from his physician position at Attica because he was "AWOL". He returned to work and then it was in 1987 that the inmate died, and he was suspended in 1990 and terminated.

He supports himself from various properties that he owns over which he has control. He keeps busy by assisting litigants and functions as a legal advisor without charge.

There is no history of drugs abuse or alcohol abuse. There is no history of sexual acting out or physical abuse against patients or colleagues.

Mental Status Examination: Psychiatric examination

reveals a lanky, regular featured male who arrives for his appointment punctually. He is well dressed in a three piece business suit and as he appears his personal hygiene and grooming were impeccable. He was fully oriented and cooperative. He was able to maintain silence while I asked him pertinent questions and reviewed material which he provided to me. He was able to organize his thoughts meaningfully and cogently. His goal thinking was unimpaired. Memory functions were intact. Level of intelligence was regarded as well above average. He spoke clearly and crisply without evidence of slurring. His manner was quite intense but not inappropriately so. His affective responses were variable but appropriate. His reality testing was firm and undistorted by delusions or hallucinations. He impressed me as a person who was not particularly introspective and yet I did not receive the impression of callousness or superficiality. He feels that the charges against him "belong in the waste basket". His level of self confidence was quite high and yet there was no evidence of grandiosity.

Impression: No mental or emotional disorder. It is my opinion that Daniel Hodge, M.D. is fit to practice medicine on the basis that he was free of significant psychopathology.

Sincerely,

George S. Parlato, M.D.

GSP/ea

